

Historic, Archive Document

Do not assume content reflects current scientific knowledge, policies, or practices.

LEGISLATIVE HISTORY

H. R. 9728

VETOED

TABLE OF CONTENTS

Index and Summary of H. R. 9728.....	1
--------------------------------------	---

Index and Summary of H. R. 9728

- Mar. 4, 1954 Rep. McCulloch introduced H. R. 8221 which was referred to House Judiciary Committee. Print of bill as introduced.
- June 29, 1954 Rep. McCulloch introduced H. R. 9728 which was referred to House Judiciary Committee.
House committee reported H. R. 9728 without amendment.
H. Rept. No. 1979. Print of bill and report.
- July 6, 1954 House passed H. R. 9728 without amendment.
- July 7, 1954 H. R. 9728 was referred to Senate Judiciary Committee.
Print of bill as referred.
- Aug. 18, 1954 Senate committee reported H. R. 9728 with amendments.
S. Rept. No. 2496. Print of bill and report.
- Aug. 19, 1954 Senate passed S. 9728 as reported.
House concurred in Senate amendments.
- Sept. 3, 1954 Pocket vetoed. Memorandum of disapproval.

IN THE HOUSE OF REPRESENTATIVES

MARCH 4, 1954

Mr. McCULLOCH introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To revise, codify, and enact into law, title 21 of the United States Code, entitled "Food and Drugs".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 21 of the United States Code, entitled "Food and Drugs", is hereby revised, codified, and enacted into law, and may be cited as "Title 21, United States Code, § —", as follows:

TITLE 21—FOOD AND DRUGS

PART	Sec.
I. FOOD AND DRUGS GENERALLY.....	1
II. ANIMALS, POULTRY AND MEATS.....	451
III. NARCOTICS	711

PART I—FOOD AND DRUGS GENERALLY

CHAPTER	Sec.
1. FOOD AND DRUG ADMINISTRATION.....	1
3. FOOD, DRUGS, AND COSMETICS.....	41
5. MILK AND CREAM.....	201
7. TEA IMPORTATION	261
9. CAUSTIC POISONS.....	311

CHAPTER 1—FOOD AND DRUG ADMINISTRATION

Sec.
1. Establishment.
2. Functions of Secretary of Health, Education, and Welfare.
3. Board of Tea Experts.
4. Board of Tea Appeals.

§ 1. Establishment

The Food and Drug Administration shall continue as a constituent organization of the Department of Health, Education, and Welfare.

§ 2. Functions of Secretary of Health, Education, and Welfare

The Secretary of Health, Education, and Welfare shall perform the functions prescribed for him under Part I of this title, or he may delegate them to any officer or employee of the Department of Health, Education, and Welfare, who shall perform them subject to the Secretary's direction and control.

§ 3. Board of Tea Experts

Before February 16 of each year, the Secretary of Health, Education, and Welfare shall appoint a Board of Tea Experts of seven members who are experts in teas, for a term of one year subject to removal by the Secretary. The Secretary shall fill vacancies by appointment for an unexpired term.

The Board shall appoint a presiding officer, who shall be the medium of all communications to or from the Board. Each member of the Board shall receive as compensation the sum of \$50 per annum, and necessary expenses in connection with his duties under this title, to be paid by the Secretary of Health, Education, and Welfare.

§ 4. Board of Tea Appeals

The United States Board of Tea Appeals shall consist of three employees of the Department of Health, Education, and Welfare designated by the Secretary of Health, Education, and Welfare.

CHAPTER 3—FOOD, DRUGS, AND COSMETICS

SUBCHAPTER I—DEFINITIONS, DETERMINATIONS, AND REPRESENTATIONS

Sec.

41. Definitions.
42. Determination of misbranding.
43. Representation as antiseptic.

SUBCHAPTER II—FOOD

51. Definitions and standards for food.
52. Adulterated food.
53. Misbranded food.
54. Exemptions.
55. Tolerances for poisonous ingredients; certification of coal-tar colors.
56. Emergency permit control.
57. Sea food; examination on request of packer; fees.
58. Colored oleomargarine; Congressional finding as to sale or serving.
59. Colored oleomargarine; sale in State where produced; packaging and labeling; service in restaurants.
60. Oleomargarine, butterine, imitation butter or cheese; application of State laws.
61. Exemption of meats and meat food products.

SUBCHAPTER III—DRUGS AND DEVICES

71. Adulterated drugs and devices.
72. Misbranded drugs and devices.
73. Exemptions.
74. Certification of coal-tar colors.
75. New drugs.
76. Certification of drugs containing insulin.
77. Certification of drugs containing antibiotics.

SUBCHAPTER IV—COSMETICS

- 91. Adulterated cosmetics.
- 92. Misbranded cosmetics.
- 93. Exemptions.
- 94. Certification of coal-tar colors for cosmetics.

SUBCHAPTER V—IMPORTS AND EXPORTS

- 111. Examination and refusal of imports.
- 112. Exports adulterated or misbranded.
- 113. Suspension of adulterated imports.

SUBCHAPTER VI—ADMINISTRATIVE PROVISIONS

- 131. Regulations; hearings; judicial review.
- 132. Examinations and investigations.
- 133. Records of interstate shipment.
- 134. Factory inspection; notice; reports; receipts for samples; copies of analyses.
- 135. Publicity.
- 136. Cost of certification of coal-tar colors.
- 137. Revision of Pharmacopoeia; development of analysis and tests.

SUBCHAPTER VII—ENFORCEMENT AND PENALTIES

- 151. Prohibited acts.
- 152. Penalties; exemptions.
- 153. Injunctions.
- 154. Libel for condemnation.
- 155. Hearing before violation reported.
- 156. Report of minor violations.
- 157. Proceedings in name of United States; subpoenas.

SUBCHAPTER I—DEFINITIONS, DETERMINATIONS, AND REPRESENTATIONS

§ 41. Definitions

As used in this chapter—

1. "Secretary" means the Secretary of Health, Education, and Welfare.

2. "Department" means the Department of Health, Education, and Welfare.

3. "Butter" means the food product usually known as butter, and which is made exclusively from milk or cream, or both, with or without common salt, and with or without additional coloring matter, and containing not less than 80 per centum by weight of milk fat, all tolerances having been allowed for.

4. "Cosmetic" means articles other than soap, (1) intended to be applied to or introduced into the human body for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) intended for use as a component of any such articles.

5. "Device", except when used in sections 42, 53 (f), 72 (c), 92 (c), and 151 (1) of this title, means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended (1) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or (2) to affect the structure or any function of the body of man or other animals.

6. "Drug" means (1) articles recognized in an official compendium; and (2) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (3) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and (4) articles intended for use as a component of any article specified in clauses (1), (2), or (3) of this paragraph; but does not include devices or their components, parts, or accessories.

7. "Food" means (1) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article.

8. "Interstate commerce" means (1) commerce between any State or Territory and any place outside thereof, and (2) commerce within the District of Columbia or within any other Territory not organized with a legislative body.

9. "Label" means a display of written, printed, or graphic matter upon the immediate container other than a package liner, of any article; and a requirement made by or under authority of this chapter that any word, statement, or other information appearing on the label shall not be considered to be complied with unless it also appears on or is legible through the outside container or wrapper, if any there be, of the retail package of such article.

10. "Labeling" means all labels and other written, printed, or graphic matter (1) upon any article or any of its containers or wrappers, or (2) accompanying such article.

11. "New drug" means—

(1) Any drug the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety of drugs, as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof, unless at any time prior to June 25, 1938, it was subject to the Food and Drug Act of June 30, 1906, as amended, and at such time its labeling contained the same representations concerning the conditions of its use; or

(2) Any drug the composition of which is such that, as a result of investigations to determine its safety for use under such conditions, it has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.

12. "Nonfat dry milk solids" or "defatted milk solids" is the product resulting from the removal of fat and water from the sweet milk of cows, and containing (a) the lactose, milk proteins, and milk minerals in the same relative proportions as in the fresh milk from which made, (b) not over 5 per centum by weight of moisture, and (c) not over 1½ per centum by weight of fat content unless otherwise indicated.

13. "Official compendium" means the official United States Pharmacopœia, official Homœopathic Pharmacopœia of the United States, official National Formulary, or any supplement thereto.

14. "Package" includes wrapped meats inclosed in papers or other materials as prepared by the manufacturers thereof for sale.

15. "Person" means an individual, partnership, corporation, or association.

16. "Territory" includes the District of Columbia and any Territory or possession of the United States, but not the Canal Zone.

§ 42. Determination of misbranding

If an article is alleged to be misbranded because the labeling is misleading, there shall be taken into account, among other things, in determining whether the labeling is misleading not only representations made or suggested by statement, word, design, device, or any combination thereof, but also the extent to which the labeling fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling relates under the conditions of use prescribed in the labeling thereof or under such conditions of use as are customary or usual.

§ 43. Representation as antiseptic

The representation of a drug, in its labeling, as an antiseptic shall constitute a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or for such other use as involves prolonged contact with the body.

SUBCHAPTER II—FOOD

§ 51. Definitions and standards for food

Whenever in the judgment of the Secretary such action will promote honesty and fair dealing in the interest of consumers, the Secretary shall promulgate regulations fixing and establishing for any food, under its common or usual name in so far as practicable, a reasonable

definition and standard of identity, a reasonable standard of quality, and/or reasonable standards of fill of container.

The Secretary may not establish a definition and standard of identity or standard of quality for fresh or dried fruits, fresh or dried vegetables, or butter, but may establish definitions and standards of identity, relating only to maturity and to the effects of freezing, for avocados, cantaloupes, citrus fruits, and melons.

In prescribing any standard of fill of container, the Secretary shall give consideration to the natural shrinkage in storage and in transit of fresh natural food and to need for the necessary packing and protective material.

In prescribing any standard of quality for any canned fruit or canned vegetable, the Secretary shall give consideration to and make allowance for the differing characteristics of the several varieties of such fruit or vegetable.

In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted, the Secretary shall, for the purpose of promoting honesty and fair dealing in the interest of consumers, designate the optional ingredients which shall be named on the label.

§ 52. Adulterated food

A food is deemed to be adulterated—

(a) **POISONOUS, INSANITARY, ETC., INGREDIENTS.**—(1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health unless the substance is not an added substance and its quantity in such food does not ordinarily render it injurious to health; or (2) if it bears or contains any added poisonous or added deleterious substance which is unsafe within the meaning of section 55 of this title; or (3) if it consists in whole or in part of any filthy, putrid, or decomposed substance, or is otherwise unfit for food; or (4) if it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth or rendered injurious to health; or (5) if it is, in whole or in part, the product of a diseased animal or of an animal which has died otherwise than by slaughter; or (6) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

(b) **ABSENCE, SUBSTITUTION, OR ADDITION OF CONSTITUENTS.**—(1) If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or (2) if any substance has been substituted

wholly or in part therefor; or (3) if damage or inferiority has been concealed in any manner; or (4) if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

(c) **UNCERTIFIED COAL-TAR COLORING.**—If it bears or contains a coal-tar color other than one from a batch that has been certified in accordance with regulations as provided by section 55 of this title. This paragraph does not apply to citrus fruit bearing or containing a coal-tar color where application for listing of such color has been made under this chapter but not acted on by the Secretary, if such color was commonly used prior to June 25, 1938, for the purpose of coloring citrus fruit.

(d) **CONFECTIONERY CONTAINING ALCOHOL OR NONNUTRITIVE SUBSTANCE.**—If it is confectionery, and it bears or contains any alcohol or nonnutritive article or substance except harmless coloring, harmless flavoring, harmless resinous glaze not in excess of four-tenths of 1 per centum, natural gum, and pectin. This paragraph does not apply to any confectionery by reason of its containing less than one-half of 1 per centum by volume of alcohol derived solely from the use of flavoring extracts, or to any chewing gum by reason of its containing harmless nonnutritive masticatory substances.

(e) **INSANITARY INGREDIENTS IN OLEOMARGARINE OR BUTTER.**—If it is oleomargarine or margarine or butter and any of the raw material used therein consisted in whole or in part of any filthy, putrid, or decomposed substance, or such oleomargarine or margarine or butter is otherwise unfit for food.

§ 53. Misbranded food

A food is deemed to be misbranded—

(a) **FALSE OR MISLEADING LABELING.**—If its labeling is false or misleading in any particular.

(b) **OFFER FOR SALE UNDER ANOTHER NAME.**—If it is offered for sale under the name of another food.

(c) **IMITATION.**—If it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated.

(d) **MISLEADING CONTAINER.**—If its container is so made, formed, or filled as to be misleading.

(e) **PACKAGE FORM.**—If in package form unless it bears a label containing (1) the name and place of business of the manufacturer,

packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count. Under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary.

(f) **PROMINENCE OF INFORMATION ON LABEL.**—If any word, statement, or other information required by this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(g) **REPRESENTATION AS TO IDENTITY.**—If it purports to be or is represented as a food for which a definition and standard of identity has been prescribed by regulations as provided by section 51 of this title, unless (1) it conforms to such definition and standard, and (2) its label bears the name of the food specified in the definition and standard, and, insofar as required by such regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such food.

(h) **REPRESENTATION AS TO QUALITY AND FILL OF CONTAINER.**—If it purports to be or is represented as—

(1) a food for which a standard of quality has been prescribed by regulations as provided by section 51 of this title, and its quality falls below such standard, unless its label bears, in accordance with such regulations, a statement that it falls below such standard; or

(2) a food for which a standard or standards of fill of container has been prescribed by regulations as provided by section 51 of this title, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard.

(i) **LABEL WHERE NO REPRESENTATION AS TO STANDARD OF IDENTITY.**—If it is not subject to the provisions of paragraph (g) of this section unless its label bears (1) the common or usual name of the food, if any there be, and (2) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavoring, and colorings without naming each. The Secretary shall promulgate regulations establishing exemptions to the extent that compliance with the requirements of clause (2) of

this paragraph is impracticable, or results in deception or unfair competition.

(j) **REPRESENTATION FOR SPECIAL DIETARY USE.**—If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the Secretary by regulations prescribes as necessary in order fully to inform purchasers as to its value for such uses.

(k) **ARTIFICIAL FLAVORING, ETC.; EXCEPTION OF ARTICLES FROM (g), (i), AND (k).**—If it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact. The Secretary shall promulgate regulations establishing exemptions to the extent that compliance with the requirements of this paragraph is impracticable. The provisions of the paragraph and paragraphs (g) and (i) of this section with respect to artificial coloring shall not apply in the case of butter, cheese, or ice cream.

§ 54. Exemptions

The Secretary shall promulgate regulations exempting from any labeling requirement of this chapter (1) small open containers of fresh fruits and fresh vegetables and (2) food which is, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such food is not adulterated or misbranded under the provisions of this chapter upon removal from such processing, labeling, or repacking establishment.

§ 55. Tolerances for poisonous ingredients; certification of coal-tar colors

(a) Any poisonous or deleterious substance added to any food, except where such substance is required in the production thereof or cannot be avoided by good manufacturing practice, shall be deemed to be unsafe for purposes of the application of clause (2) of section 52(a) of this title. When such substance is so required or cannot be so avoided, the Secretary shall promulgate regulations limiting the quantity therein or thereon to the extent the Secretary finds necessary for the protection of public health, and any quantity exceeding the limits so fixed shall also be deemed to be unsafe for purposes of the application of clause (2) of section 52 (a) of this title. While such a regulation is in effect limiting the quantity of any such substance in the case of any food, such food shall not, by reason of bearing or containing any added amount of such substance, be considered to be adulterated within the meaning of clause (1) of section 52(a) of

this title. In determining the quantity of such added substance to be tolerated in or on different articles of food the Secretary shall take into account the extent to which the use of such substance is required or cannot be avoided in the production of each such article, and the other ways in which the consumer may be affected by the same or other poisonous or deleterious substances.

(b) The Secretary shall promulgate regulations providing for the listing of coal-tar colors which are harmless and suitable for use in food and for the certification of batches of such colors, with or without harmless diluents.

§ 56. Emergency permit control

(a) Whenever the Secretary finds after investigation that the distribution in interstate commerce of any class of food may, by reason of contamination with micro-organisms during the manufacture, processing, or packing thereof in any locality, be injurious to health, and that the injurious nature cannot be adequately determined after the articles have entered interstate commerce, the Secretary then, and in such case only, shall promulgate regulations providing for the issuance, to manufacturers, processors, or packers of such class of food in such locality, of permits to which shall be attached such conditions governing the manufacture, processing, or packing of such class of food, for the period of time necessary to protect the public health. After the effective date of such regulations, and during such period, no person shall introduce or deliver for introduction into interstate commerce any such food unless such manufacturer, processor, or packer holds a permit issued by the Secretary as provided by such regulations.

(b) The Secretary may suspend immediately upon notice any permit issued under authority of this section if it is found that any of the conditions of the permit have been violated. The holder of a permit so suspended may at any time apply for the reinstatement thereof and the Secretary shall, immediately after prompt hearing and an inspection of the establishment, reinstate such permit if it is found that adequate measures have been taken to comply with and maintain the conditions of the permit as originally issued or as amended.

(c) Any officer or employee designated by the Secretary shall have access to any factory or establishment, the operator of which holds a permit from the Secretary, for the purpose of ascertaining whether the conditions of the permit are being complied with. If access for such inspection is denied, the Secretary may suspend the permit until such access is freely given by the operator.

§ 57. Sea food; examination on request of packer; fees

(a) Upon application of any packer of sea food for shipment or sale within the jurisdiction of this chapter, the Secretary may designate inspectors to examine and inspect such food and the production, packing, and labeling thereof. If on such examination and inspection compliance is found with the provisions of this chapter and regulations promulgated thereunder, the applicant shall mark the food as provided by regulation to show such compliance. The Secretary may promulgate regulations governing the sanitary and other conditions under which the service herein provided shall be granted and maintained, and for otherwise carrying out the purposes of this section.

(b) Inspectors shall render services under this section only upon payment by the applicant of fees fixed by regulation in amounts necessary to provide, equip, and maintain an adequate and efficient inspection service. Receipts from such fees shall be covered into the Treasury and shall be available to the Secretary for expenditures incurred in carrying out the purposes of this section, including salaries of additional inspectors when necessary.

§ 58. Colored oleomargarine; Congressional finding as to sale or serving

The Congress finds and declares that the sale, or the serving in public eating places, of colored oleomargarine or colored margarine without clear identification as such or which is otherwise adulterated or misbranded within the meaning of this chapter depresses the market in interstate commerce for butter and for oleomargarine or margarine clearly identified and neither adulterated nor misbranded, and constitutes a burden on interstate commerce in such articles. Such burden exists, irrespective of whether such oleomargarine or margarine originates from an interstate source or from the State in which it is sold.

§ 59. Colored oleomargarine; sale in State where produced; packaging and labeling; service in restaurants

(a) Colored oleomargarine or colored margarine which is sold in the same State or Territory in which it is produced shall be subject in the same manner and to the same extent to the provisions of this chapter as if it had been introduced in interstate commerce.

(b) No person shall sell, or offer for sale, colored oleomargarine or colored margarine unless—

- (1) such oleomargarine or margarine is packaged;

(2) the net weight of the contents of any package sold in a retail establishment is one pound or less;

(3) there appears on the label of the package (A) the word "oleomargarine" or "margarine" in type or lettering at least as large as any other type or lettering on such label and (B) a full and accurate statement of all the ingredients contained in such oleomargarine or margarine; and

(4) each part of the contents of the package is contained in a wrapper which bears the word "oleomargarine" or "margarine" in type or lettering not smaller than 20-point type.

The requirements of this subsection shall be in addition to and not in lieu of any of the other requirements of this chapter.

(c) No person shall possess in a form ready for serving colored oleomargarine or colored margarine at a public eating place unless a notice that oleomargarine or margarine is served is displayed prominently and conspicuously in such place and in such manner as to render it likely to be read and understood by the ordinary individual being served in such eating place or is printed or is otherwise set forth on the menu in type or lettering not smaller than that normally used to designate the serving of other food items. No person shall serve colored oleomargarine or colored margarine at a public eating place, whether or not any charge is made therefor, unless (1) each separate serving bears or is accompanied by labeling identifying it as oleomargarine or margarine, or (2) each separate serving thereof is triangular in shape.

(d) If colored oleomargarine or colored margarine complies with the requirements of subsection (b) of this section when served with meals at a public eating place, it shall, at the time of such service, be exempt from the requirements of section 53 of this title, except subsections (a) and (f) of such section.

(e) For the purposes of this section, colored oleomargarine or colored margarine is oleomargarine or margarine having a tint or shade containing more than one and six-tenths degrees of yellow, or of yellow and red collectively, but with an excess of yellow over red, measured in terms of the Lovibond tintometer scale or its equivalent, and the term "oleomargarine" or "margarine" includes—

(1) all substances, mixtures, and compounds known as oleomargarine or margarine;

(2) all substances, mixtures, and compounds which have a consistence similar to that of butter and which contain any edible

oils or fats other than milk fat if made in imitation or semblance of butter.

§ 60. Oleomargarine, butterine, imitation butter or cheese; application of State laws

(a) Nothing in this chapter or sections 45 and 55 of Title 15 shall be construed as authorizing the possession, sale, or serving of colored oleomargarine, or colored margarine in any State or Territory in contravention of the laws of such State or Territory.

(b) All articles known as oleomargarine, butterine, imitation, process, renovated, or adulterated butter, or imitation cheese, or any substance in the semblance of butter or cheese not the usual product of the dairy and not made exclusively of pure and unadulterated milk or cream, transported into any State or Territory or the District of Columbia, and remaining therein for use, consumption, sale, or storage therein, shall, upon the arrival within the limits therein be subject to the operation and effect of the laws thereof enacted in the exercise of its police powers to the same extent and in the same manner as though such articles or substances had been produced therein, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise.

§ 61. Exemption of meats and meat food products

Meats and meat food products are exempt from the provisions of this chapter to the extent of the application or the extension thereto of chapter 53 of this title.

SUBCHAPTER III—DRUGS AND DEVICES

§ 71. Adulterated drugs and devices

(a) **POISONOUS, INSANITARY, ETC., INGREDIENTS.**—A drug or device is deemed to be adulterated—

(1) If it consists in whole or in part of any filthy, putrid, or decomposed substance; or

(2) if it has been prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth or rendered injurious to health; or

(3) if it is a drug and its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or

(4) if it is a drug and bears or contains, for purposes of coloring only, a coal-tar color other than one from a batch that has been certified in accordance with regulations as provided by section 74 of this title.

(b) **STRENGTH, QUALITY, OR PURITY DIFFERING FROM OFFICIAL COMPENDIUM.**—If it purports to be or is represented as a drug the name of which is recognized in an official compendium, and its strength differs from, or its quality or purity falls below, the standard set forth in such compendium, determined in accordance with the tests or methods of assay set forth in such compendium. Whenever tests or methods of assay have not been prescribed in such compendium, or, if prescribed, are, in the judgment of the Secretary, insufficient for the making of such determination, the Secretary shall notify the appropriate body charged with the revision of such compendium, and if such body fails within a reasonable time to prescribe tests or methods of assay which, in the judgment of the Secretary, are sufficient for purposes of this paragraph, he shall promulgate regulations prescribing appropriate tests or methods of assay in accordance with which such determination as to strength, quality, or purity shall be made. No drug defined in an official compendium shall be deemed to be adulterated under this paragraph because it differs from the standard of strength, quality, or purity therefor set forth in such compendium, if its difference in strength, quality, or purity from such standard is plainly stated on its label. A drug recognized in both the United States Pharmacopœia and the Homœopathic Pharmacopœia of the United States shall be subject to the requirements of the United States Pharmacopœia unless it is labeled and offered for sale as a homœopathic drug, in which case it shall be subject to the provisions of the Homœopathic Pharmacopœia of the United States.

(c) **MISREPRESENTATION OF STRENGTH, ETC., WHERE DRUG IS UNRECOGNIZED IN COMPENDIUM.**—If it is not subject to the provisions of paragraph (b) of this section and its strength differs from, or its purity or quality falls below, that which it purports or is represented to possess.

(d) **MIXTURE WITH OR SUBSTITUTION OF ANOTHER SUBSTANCE.**—If it is a drug and any substance has been (1) mixed or packed therewith so as to reduce its quality or strength or (2) substituted wholly or in part therefor.

§ 72. Misbranded drugs and devices

A drug or device is deemed to be misbranded—

(a) **FALSE OR MISLEADING LABELING.**—If its labeling is false or misleading in any particular.

(b) **PACKAGE FORM; CONTENTS OF LABEL.**—If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate state-

ment of the quantity of the contents in terms of weight, measure, or numerical count. Under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary.

(c) **PROMINENCE OF INFORMATION ON LABEL.**—If any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(d) **HABIT-FORMING SUBSTANCE.**—If it is for use by man and contains any quantity of the narcotic or hypnotic substance alpha eucaine, barbituric acid, betaeucaine, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, marihuana, morphine, opium, paraldehyde, peyote, or sulphonmethane; or any chemical derivative of such substance, which the Secretary, after investigation, finds to be, and by regulations designates as, habit forming; unless its label bears the name and quantity or proportion of such substance or derivative and in juxtaposition therewith the statement "Warning—May be habit forming."

(e) **DESIGNATION OF DRUG BY NAME NOT IN COMPENDIUM.**—If it is a drug not designated solely by a name recognized in an official compendium unless its label bears (1) the common or usual name of the drug, if such there be; and (2), in case it is fabricated from two or more ingredients, the common or usual name of each active ingredient, including the quantity, kind, and proportion of any alcohol, and also including, whether active or not, the name and quantity or proportion of any bromides, ether, chloroform, acetanilid, acetphenetidin, amidopyrine, antipyrine, atropine, hyoscine, hyoscyamine, arsenic, digitalis, digitalis glucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or any derivative or preparation of any such substances, contained therein. The Secretary shall promulgate regulations establishing exemptions to the extent that compliance with the requirements of clause (2) of this paragraph is impracticable.

(f) **DIRECTIONS FOR USE AND WARNINGS ON LABEL.**—Unless its label bears (1) adequate directions for use; and (2) adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in such manner and form as

are necessary for the protection of users. Where any requirement of clause (1) of this paragraph, as applied to any drug or device, is not necessary for the protection of the public health, the Secretary shall promulgate regulations exempting such drug or device from such requirement.

(g) REPRESENTATION AS RECOGNIZED DRUG; PACKING AND LABELING.—If it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed therein. The Secretary may consent to a modification of the method of packing. A drug recognized in both the United States Pharmacopœia and the Homœopathic Pharmacopœia of the United States shall be subject to the requirements of the United States Pharmacopœia with respect to packaging and labeling unless it is labeled and offered for sale as a homœopathic drug, in which case it shall be subject to the provisions of the Homœopathic Pharmacopœia of the United States.

(h) DETERIORATIVE DRUGS; PACKING AND LABELING.—If it has been found by the Secretary to be a drug liable to deterioration, unless it is packaged in such form and manner, and its label bears a statement of such precautions, as the Secretary by regulations requires as necessary for the protection of the public health. The Secretary shall not establish a regulation for any drug recognized in an official compendium until the Secretary has informed the body charged with the revision of such compendium of the need for such packaging or labeling requirements and such body has failed within a reasonable time to prescribe such requirements.

(i) DRUG; MISLEADING CONTAINER; IMITATION; OFFER FOR SALE UNDER ANOTHER NAME.—(1) If it is a drug and its container is so made, formed, or filled as to be misleading; or (2) if it is an imitation of another drug; or (3) if it is offered for sale under the name of another drug.

(j) HEALTH-ENDANGERING WHEN USED AS PRESCRIBED.—If it is dangerous to health when used in the dosage, or with the frequency or duration prescribed, recommended, or suggested in the labeling thereof.

(k) INSULIN NOT PROPERLY CERTIFIED.—If it is, or purports to be, or is represented as a drug composed wholly or partly of insulin, unless (1) it is from a batch with respect to which a certificate or release has been issued pursuant to section 76 of this title, and (2) such certificate or release is in effect with respect to such drug.

(l) **OTHER DRUGS NOT PROPERLY CERTIFIED.**—If it is, or purports to be, or is represented as a drug composed wholly or partly of any kind of penicillin, streptomycin, chlortetracycline, chloramphenicol, or bacitracin, or any derivative thereof, unless (1) it is from a batch with respect to which a certificate or release has been issued pursuant to section 77 of this title, and (2) such certificate or release is in effect with respect to such drug. This subsection does not apply to any drug or class of drugs exempted by regulations promulgated under section 77 (c) or (d) of this title.

§ 73. Exemptions

(a) The Secretary shall promulgate regulations exempting from any labeling or packing requirement of this chapter drugs and devices which are, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such drugs and devices are not adulterated or misbranded under the provisions of this chapter upon removal from such processing, labeling, or repacking establishment.

(b) (1) A drug intended for use by man which—

(A) is a habit-forming drug to which section 72 (d) of this title applies; or

(B) because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use, is not safe for use except under the supervision of a practitioner licensed by law to administer such drug; or

(C) is limited by an effective application under section 75 of this title to use under the professional supervision of a practitioner licensed by law to administer such drug,

shall be dispensed only (i) upon a written prescription of a practitioner licensed by law to administer such drug, or (ii) upon an oral prescription of such practitioner which is reduced promptly to writing and filed by the pharmacist, or (iii) by refilling any such written or oral prescription if such refilling is authorized by the prescriber either in the original prescription or by oral order which is reduced promptly to writing and filed by the pharmacist. The act of dispensing a drug contrary to the provisions of this paragraph is deemed to be an act which results in the drug being misbranded while held for sale.

(2) A drug dispensed by filling or refilling a written or oral prescription of a practitioner licensed by law to administer such drug

is exempt from the requirements of section 72 of this title, except paragraphs (a), (i) (2) and (3), (k) and (l) of such section, and the packaging requirements of paragraphs (g) and (h) of such section, if the drug bears a label containing the name and address of the dispenser, the serial number and date of the prescription or of its filling, the name of the prescriber, and, if stated in the prescription, the name of the patient, and the directions for use and cautionary statements, if any, contained in such prescription. This exemption does not apply to any drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail, or to a drug dispensed in violation of paragraph (1) of this subsection.

(3) The Secretary may by regulation remove drugs subject to sections 72 (d) and 75 of this title from the requirements of paragraph (1) of this subsection when such requirements are not necessary for the protection of the public health.

(4) A drug which is subject to paragraph (1) of this subsection is deemed to be misbranded if at any time prior to dispensing its label fails to bear the statement "Caution: Federal law prohibits dispensing without prescription". A drug to which paragraph (1) of this subsection does not apply is deemed to be misbranded if at any time prior to dispensing its label bears the caution statement quoted in the first sentence of this paragraph.

(5) Nothing in this subsection shall be construed to relieve any person from any requirement prescribed by or under authority of law with respect to drugs now included or which may hereafter be included within the classifications stated in section 3220 of the Internal Revenue Code, or to marihuana as defined in section 3238 (b) of the Internal Revenue Code.

§ 74. Certification of coal-tar colors

The Secretary shall promulgate regulations providing for the listing of coal-tar colors which are harmless and suitable for use in drugs for purposes of coloring only and for the certification of batches of such colors, with or without harmless diluents.

§ 75. New drugs

(a) **NECESSITY OF EFFECTIVE APPLICATION.**—No person shall introduce or deliver for introduction into interstate commerce any new drug, unless an application filed pursuant to subsection (b) of this section is effective with respect to such drug.

(b) **FILING APPLICATION.**—Any person may file with the Secretary an application with respect to any drug subject to subsection (a) of

this section, which application shall include (1) full reports of investigations which have been made to show whether such drug is safe for use; (2) a full list of the articles used as components of such drug; (3) a full statement of the composition of such drug; (4) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such drug; (5) samples of such drug and of the articles used as components thereof as the Secretary may require; and (6) specimens of the labeling proposed to be used for such drug.

(c) **EFFECTIVE DATE OF APPLICATION.**—An application provided for in subsection (b) of this section shall become effective on the sixtieth day after the filing thereof unless prior to such day the Secretary by written notice to the applicant postpones the effective date of the application to such time, not more than one hundred and eighty days after the filing thereof, as he deems necessary to enable him to study and investigate the application.

(d) **GROUND FOR REFUSING APPLICATION TO BECOME EFFECTIVE.**—Prior to the effective date of the application, the Secretary shall issue an order refusing to permit the application to become effective if he finds, after due notice to the applicant and giving him an opportunity for a hearing, that (1) the investigations reported pursuant to subsection (b) of this section do not include adequate tests by all methods reasonably applicable to show whether such drug is safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof; (2) the results of such tests show that such drug is unsafe for use under such conditions or do not show that such drug is safe for use under such conditions; (3) the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such drug are inadequate to preserve its identity, strength, quality, and purity; or (4) upon the basis of the information submitted to him as part of the application, or other information before him with respect to such drug, he has insufficient information to determine whether such drug is safe for use under such conditions.

(e) **SUSPENSION OF EFFECTIVENESS OF APPLICATION.**—The Secretary shall order the suspension of the effectiveness of an application with respect to any drug after due notice and opportunity for hearing to the applicant, if he finds (1) that clinical experience, tests by new methods, or tests by methods not deemed reasonably applicable when such application became effective show that such drug is unsafe for use under the conditions of use upon the basis of

which the application became effective, or (2) that the application contains any untrue statement of a material fact. The order shall state the findings upon which it is based.

(f) **REVOCATION OF ORDER REFUSING EFFECTIVENESS.**—When the Secretary finds that the facts so require he shall revoke an order refusing to permit an application with respect to a drug to become effective.

(g) **SERVICE OF ORDERS.**—Orders of the Secretary issued under this section shall be served (1) in person by any officer or employee of the Department designated by the Secretary or (2) by registered mail addressed to the applicant or respondent at his last-known address in the records of the Secretary.

(h) **APPEAL FROM ORDER.**—The applicant may appeal from an order of the Secretary refusing to permit the application to become effective, or suspending the effectiveness of the application by filing in the United States district court within any district wherein such applicant resides or has his principal place of business, or in the United States District Court for the District of Columbia, within sixty days after the entry of the order, a written petition praying that the order of the Secretary be set aside. The applicant shall serve a copy of the petition forthwith upon the Secretary, or upon any officer designated by him for that purpose, and thereupon the Secretary shall certify and file in the court a transcript of the record upon which the order complained of was entered. Upon the filing of such transcript the court shall have exclusive jurisdiction to affirm or set aside such order. The court shall not consider an objection to the order of the Secretary unless such objection was urged before the Secretary or unless there were reasonable grounds for failure so to do. The finding of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive. If any person applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence to be taken before the Secretary and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court seems proper. The Secretary may modify his findings as to the facts by reason of the additional evidence so taken, and he shall file with the court such modified findings which, if supported by substantial evidence, shall be conclusive, and his recommendation, if any,

for the setting aside of the original order. The judgment and decree of the court affirming or setting aside any such order of the Secretary shall be final, subject to review as provided in sections 1254 and 1291–1294 of Title 28. The commencement of proceedings under this subsection shall not, unless specifically ordered by the court to the contrary, operate as a stay of the Secretary's order.

(i) **EXEMPTION OF DRUGS FOR RESEARCH.**—The Secretary shall promulgate regulations for exempting from the operation of this section drugs intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety of drugs.

§ 76. Certification of drugs containing insulin

(a) The Secretary, pursuant to regulations promulgated by the Secretary, shall provide for the certification of batches of drugs composed wholly or partly of insulin. A batch of any such drug shall be certified only if such drug has such characteristics of identity and such batch has such characteristics of strength, quality, and purity, as the Secretary prescribes in such regulations as necessary adequately to insure safety and efficacy of use. Prior to the effective date of such regulations the Secretary, in lieu of certification, shall issue a release for any batch which, in his judgment, may be released without risk as to the safety and efficacy of its use. Such release shall prescribe the date of its expiration and other conditions under which it shall cease to be effective as to such batch and as to portions thereof.

(b) Regulations providing for such certifications shall contain such provisions as are necessary to carry out the purposes of this section, including provisions prescribing (1) standards of identity and of strength, quality, and purity; (2) tests and methods of assay to determine compliance with such standards; (3) effective periods for certificates, and other conditions under which they shall cease to be effective as to certified batches and as to portions thereof; (4) administration and procedure; and (5) such fees, specified in such regulations, as are necessary to provide, equip, and maintain an adequate certification service. Such regulations shall prescribe no standard of identity or of strength, quality, or purity for any drug different from the standard of identity, strength, quality, or purity set forth for such drug in an official compendium.

(c) Such regulations, insofar as they prescribe tests or methods of assay to determine strength, quality, or purity of any drug, different from the tests or methods of assay set forth for such drug in an official

compendium, shall be prescribed, after notice and opportunity for revision of such compendium, in the manner provided in the second sentence of section 71 (b) of this title. The provisions of subsections (e), (f), and (g) of section 131 of this title apply only to such portion of any regulation as prescribes any such different test or method.

§ 77. Certification of drugs containing antibiotics

(a) REGULATIONS FOR CERTIFICATION.—The Secretary, pursuant to regulations promulgated by the Secretary, shall provide for the certification of batches of drugs composed wholly or partly of any kind of penicillin, streptomycin, chlortetracycline, chloramphenicol, or bacitracin, or any derivative thereof. A batch of any such drug shall be certified only if such drug has such characteristics of identity and such batch has such characteristics of strength, quality, and purity, as the Secretary prescribes in such regulations as necessary adequately to insure safety and efficacy of use. Prior to the effective date of such regulations the Secretary, in lieu of certification, shall issue a release for any batch which, in the Secretary's judgment, may be released without risk as to the safety and efficacy of its use. Such release shall prescribe the date of its expiration and other conditions under which it shall cease to be effective as to such batch and as to portions thereof.

(b) PROVISIONS OF REGULATIONS.—Regulations providing for such certifications shall contain such provisions as are necessary to carry out the purposes of this section, including provisions prescribing (1) standards of identity and of strength, quality, and purity; (2) tests and methods of assay to determine compliance with such standards; (3) effective periods for certificates, and other conditions under which they shall cease to be effective as to certified batches and as to portions thereof; (4) administration and procedure; and (5) such fees, specified in such regulations, as are necessary to provide, equip, and maintain an adequate certification service. Such regulations shall prescribe only such tests and methods of assay as will provide for certification or rejection within the shortest time consistent with the purposes of this section.

(c) EXEMPTION OF DRUGS NOT INVOLVING SAFETY AND EFFICACY OF USE.—Whenever in the judgment of the Secretary, the requirements of this section and of section 72 (l) of this title with respect to any drug or class of drugs are not necessary to insure safety and efficacy of use, the Secretary shall promulgate regulations exempting such drug or class of drugs from such requirements.

(d) **OTHER EXEMPTIONS.**—The Secretary shall promulgate regulations exempting from any requirement of this section and of section 72 (l) of this title, (1) drugs which are to be stored, processed, labeled, or repacked at establishments other than those where manufactured, on condition that such drugs comply with all such requirements upon removal from such establishments; (2) drugs which conform to applicable standards of identity, strength, quality, and purity prescribed by these regulations and are intended for use in manufacturing other drugs; and (3) drugs which are intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety and efficacy of drugs.

(e) **APPLICATION OF OTHER SECTIONS; DETERMINATION OF COMPLIANCE.**—No drug which is subject to this section shall be subject to section 75 of this title. Compliance of any drug subject to section 72 (l) of this title or this section with sections 71 (b) and 71 (g) of this title shall be determined by the application of the standards of strength, quality, and purity, the tests and methods of assay, and the requirements of packaging and labeling, respectively, prescribed by regulations promulgated under this section.

(f) **PROCEDURE FOR ISSUANCE, AMENDMENT, OR REPEAL OF REGULATIONS.**—Any interested person may file with the Secretary a petition proposing the issuance, amendment, or repeal of any regulation contemplated by this section. The petition shall set forth the proposal in general terms and shall state reasonable grounds therefor. The Secretary shall give public notice of the proposal and an opportunity for all interested persons to present their views thereon, orally or in writing, and as soon as practicable thereafter shall make public the Secretary's action upon such proposal. At any time prior to the thirtieth day after such action is made public any interested person may file objections to such action, specifying with particularity the changes desired, stating reasonable grounds therefor, and requesting a public hearing upon such objections. The Secretary shall thereupon, after due notice, hold such public hearing. As soon as practicable, after completion of the hearing, the Secretary shall by order make public the Secretary's action on such objections. The order shall be based only on substantial evidence of record at the hearing and shall include detailed findings of fact on which it is based. The order shall be subject to the provisions of section 131 (f) and (g) of this title.

SUBCHAPTER IV—COSMETICS

§ 91. Adulterated cosmetics

A cosmetic is deemed to be adulterated—

(a) If it bears or contains any poisonous or deleterious substance which may render it injurious to users under the conditions of use prescribed in the labeling thereof, or under such conditions of use as are customary or usual. This provision does not apply to coal-tar hair dye, the label of which bears the following legend conspicuously displayed thereon: "Caution—This product contains ingredients which may cause skin irritation on certain individuals and a preliminary test according to accompanying directions should first be made. This product must not be used for dyeing the eyelashes or eyebrows; to do so may cause blindness.", and the labeling of which bears adequate directions for such preliminary testing. For the purposes of this paragraph and paragraph (e) of this section the term "hair dye" does not include eyelash dyes or eyebrow dyes.

(b) If it consists in whole or in part of any filthy, putrid, or decomposed substance.

(c) If it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth or rendered injurious to health.

(d) If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

(e) If it is not a hair dye and it bears or contains a coal-tar color other than one from a batch that has been certified in accordance with regulations as provided by section 94 of this title.

§ 92. Misbranded cosmetics

A cosmetic is deemed to be misbranded—

(a) If its labeling is false or misleading in any particular.

(b) If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count. Under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary.

(c) If any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as com-

pared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(d) If its container is so made, formed, or filled as to be misleading.

§ 93. Exemptions

The Secretary shall promulgate regulations exempting from any labeling requirement of this chapter cosmetics which are, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such cosmetics are not adulterated or misbranded under the provisions of this chapter upon removal from such processing, labeling, or repacking establishment.

§ 94. Certification of coal-tar colors for cosmetics

The Secretary shall promulgate regulations providing for the listing of coal-tar colors which are harmless and suitable for use in cosmetics and for the certification of batches of such colors, with or without harmless diluents.

SUBCHAPTER V—IMPORTS AND EXPORTS

§ 111. Examination and refusal of imports

(a) The Secretary of the Treasury shall deliver to the Secretary of Health, Education, and Welfare, upon the latter Secretary's request, samples of food, drugs, devices, and cosmetics which are being imported or offered for import into the United States, giving notice thereof to the owner or consignee, who may appear before the Secretary of Health, Education, and Welfare and have the right to introduce testimony. If it appears from the examination of such samples or otherwise that the article (1) has been manufactured, processed, or packed under insanitary conditions, or (2) is forbidden or restricted in sale in the country in which it was produced or from which it was exported, or (3) is adulterated, misbranded, or in violation of section 75 of this title, the Secretary of the Treasury shall refuse to admit the article, except as provided in subsection (b) of this section. He shall cause the destruction of any such article refused admission unless it is exported, under regulations prescribed by him, within ninety days of the date of notice of such refusal or within such additional time permitted pursuant to such regulations. This subsection does not prohibit the admission of narcotic drugs the importation of which is permitted under section 763 of this title.

(b) Pending decision as to the admission of an article being imported or offered for import, the Secretary of the Treasury may authorize delivery of such article to the owner or consignee upon the execution by him of a good and sufficient bond providing for the payment of such liquidated damages in the event of default as may be required pursuant to regulations of the Secretary of the Treasury. If it appears to the Secretary of Health, Education, and Welfare that an article included within the provisions of clause (3) of subsection (a) of this section can, by relabeling or other action, be brought into compliance with this chapter or rendered other than a food, drug, device, or cosmetic, the Secretary of the Treasury may defer final determination as to admission of such article and, upon filing of timely written application by the owner or consignee and the execution by him of a bond as provided in the preceding provisions of this subsection, the Secretary of Health, Education, or Welfare may, in accordance with regulations, authorize the applicant to perform such relabeling or other action specified in such authorization (including destruction or export of rejected articles or portions thereof, as may be specified in the latter Secretary's authorization). All such relabeling or other action pursuant to such authorization shall in accordance with regulations be under the supervision of an officer or employee of the Department of Health, Education, and Welfare designated by the Secretary of that Department, or an officer or employee of the Department of the Treasury designated by the Secretary of the Treasury.

(c) The owner or consignee shall pay all expenses, including travel, per diem or subsistence, and salaries of officers or employees of the United States, determined in accordance with regulations, in connection with the destruction provided for in subsection (a) of this section and the supervision of the relabeling or other action authorized under subsection (b) of this section, and all expenses in connection with the storage, cartage, or labor with respect to any article refused admission under subsection (a) of this section. In default of payment, such expenses shall constitute a lien against any future importations made by such owner or consignee.

§ 112. Exports adulterated or misbranded

A food, drug, device, or cosmetic intended for export is not deemed to be adulterated or misbranded under this chapter if it (1) accords to the specifications of the foreign purchaser, (2) is not in conflict with the laws of the country to which it is intended for export, and (3) is labeled on the outside of the shipping package to show that it is

intended for export. Such article sold or offered for sale in domestic commerce, is not exempt from any of the provisions of this chapter.

§ 113. Suspension of adulterated imports

Whenever the President is satisfied that there is good reason to believe that any importation is being made, or is about to be made, into the United States, from any foreign country, of any article used for human food or drink that is adulterated to an extent dangerous to the health or welfare of the people of the United States, or any of them, he may issue his proclamation suspending the importation of such articles from such country for such period of time as he believes necessary to prevent such importation. During such period no person shall import any of such articles into the United States from the countries designated in the proclamation of the President.

SUBCHAPTER VI—ADMINISTRATIVE PROVISIONS

§ 131. Regulations; hearings; judicial review

(a) **REGULATIONS AUTHORIZED.**—The Secretary may promulgate regulations for the efficient enforcement of this chapter, except as otherwise provided in this section.

(b) **IMPORTS AND EXPORTS.**—The Secretary of the Treasury and the Secretary of Health, Education, and Welfare shall jointly prescribe regulations for the efficient enforcement of the provisions of sections 111 and 112 of this title, except as otherwise provided therein, in such manner and to take effect at such time, after due notice, as the Secretary of Health, Education, and Welfare determines.

(c) **CONDUCT OF HEARINGS.**—The Secretary or such officer or employee as he designates shall conduct the hearings authorized or required by this chapter.

(d) **STANDARDS OF IDENTITY IN OTHER LAWS.**—The definitions and standards of identity promulgated in accordance with the provisions of this chapter shall be effective for the purposes of the enforcement of this chapter, notwithstanding such definitions and standards as may be contained in other laws of the United States and regulations promulgated thereunder.

(e) **HEARINGS ON REGULATIONS.**—The Secretary, on his own initiative or upon an application of any interested industry or substantial portion thereof stating reasonable grounds therefor, shall hold a public hearing upon a proposal to issue, amend, or repeal any regulation contemplated by sections 51, 53 (j), 55 (a), 55 (b), 56 (a), 71 (b), 72 (d), 72 (h), 74, and 94 of this title.

The Secretary shall give appropriate notice of the hearing, setting forth the proposal in general terms and specifying the time and place for the hearing not less than thirty days after the date of the notice, except that the public hearing on regulations under section 56 (a) of this title may be held within a reasonable time, to be fixed by the Secretary, after notice thereof. At the hearing any interested person may be heard in person or by his representative. As soon as practicable after completion of the hearing, the Secretary shall by order make public his action in issuing, amending, or repealing the regulation or determining not to take such action. Such order shall be based only on substantial evidence of record at the hearing and shall include detailed findings of fact on which it is based. No such order shall take effect prior to the ninetieth day after it is issued, except that if the Secretary finds that emergency conditions exist necessitating an earlier effective date, then the Secretary shall specify in the order the Secretary's findings as to such conditions and the order shall take effect at such earlier date as the Secretary specifies.

(f) JUDICIAL REVIEW.—(1) In a case of actual controversy as to the validity of any order under subsection (e) of this section, any person who will be adversely affected by such order if placed in effect may at any time prior to the ninetieth day after such order is issued file a petition with the United States Court of Appeals for the circuit wherein such person resides or has his principal place of business, for a judicial review of such order. The summons and petition may be served at any place in the United States. The Secretary, promptly upon service of the summons and petition, shall certify and file in the court the transcript of the proceedings and the record on which the Secretary based the order.

(2) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence, and evidence in rebuttal thereof, to be taken before the Secretary, and to be adduced upon the hearing, in such manner and upon such terms and conditions as it deems proper. The Secretary may modify the Secretary's findings as to the facts, or make new findings, by reason of the additional evidence so taken, and file such modified or new findings, and the Secretary's recommendation, if any, for the modification or setting aside of the Secretary's original order, with the return of such additional evidence.

(3) The court may affirm the order, or set it aside in whole or in part, temporarily or permanently. If the order of the Secretary refuses to issue, amend, or repeal a regulation and such order is not in accordance with law the court shall by its judgment order the Secretary to take action, with respect to such regulation, in accordance with law. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive.

(4) The judgment of the court affirming or setting aside, in whole or in part, any such order of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of Title 28.

(5) Any action instituted under this subsection shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

(6) The remedies provided for in this subsection shall be in addition to any other remedies provided by law.

(g) COPIES OF RECORDS OF HEARINGS.—The Secretary shall furnish a certified copy of the transcript of the record and proceedings under subsection (e) of this section to any interested party at his request, on payment of the costs thereof. Such copy shall be admissible in any criminal, libel for condemnation, exclusion of imports, or other proceeding arising under or in respect to this chapter, irrespective of whether proceedings with respect to the order have previously been instituted or become final under subsection (f) of this section.

§ 132. Examinations and investigations

(a) The Secretary may conduct examinations and investigations for the purposes of this chapter through officers and employees of the Department or through any health, food, or drug officer or employee of any State, Territory, or political subdivision thereof, duly commissioned by the Secretary as an officer of the Department. In the case of food packed in a Territory the Secretary shall attempt to make inspection of such food at the first point of entry within the United States when, in his opinion and with due regard to the enforcement of all the provisions of this chapter, the facilities at his disposal will permit of such inspection. For the purposes of this subsection the term "United States" means the States and the District of Columbia.

(b) Where a sample of a food, drug, or cosmetic is collected for analysis under this chapter, the Secretary shall, upon request provide a part of such official sample for examination or analysis by any person named on the label of the article, or the owner thereof,

or his attorney or agent; except that the Secretary may, by regulations, make such reasonable exceptions from, and impose such reasonable terms and conditions relating to, the operation of this subsection as he finds necessary for the proper administration of the provisions of this chapter.

(c) For purposes of enforcement of this chapter, records of any department or independent establishment in the executive branch of the Government shall be open to inspection by any official of the Department of Health, Education, and Welfare so authorized by the Secretary.

§ 133. Records of interstate shipment

For the purpose of enforcing the provisions of this chapter, carriers engaged in interstate commerce, and persons receiving food, drugs, devices, or cosmetics in interstate commerce or holding such articles so received, shall permit an officer or employee designated by the Secretary, at reasonable times, to have access to and to copy all records showing the movement in interstate commerce of any food, drug, device, or cosmetic, or the holding thereof during or after such movement, and the quantity, shipper, and consignee thereof. No such carrier or person shall refuse such access to and copying of any such record so requested when such request is accompanied by a statement in writing specifying the nature or kind of food, drug, device, or cosmetic to which such request relates. Evidence obtained under this section shall not be used in a criminal prosecution of the person from whom it is obtained.

Carriers shall not be subject to the other provisions of this chapter by reason of their receipt, carriage, holding, or delivery of food, drugs, devices, or cosmetics in the usual course of business as carriers.

§ 134. Factory inspection; notice; reports; receipts for samples; copies of analyses

(a) For purposes of enforcement of this chapter, officers or employees duly designated by the Secretary, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, may (1) enter, at reasonable times, any factory, warehouse, or establishment in which food, drugs, devices, or cosmetics are manufactured, processed, packed, or held, for introduction into interstate commerce or are held after such introduction, or enter any vehicle being used to transport or hold such food, drugs, devices, or cosmetics in interstate commerce; and (2) inspect, at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, establishment, or vehicle and all pertinent equipment,

finished and unfinished materials, containers, and labeling therein. A separate notice shall be given for each such inspection, but a notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness.

(b) Upon completion of any such inspection of a factory, warehouse, or other establishment, and prior to leaving the premises, the officer or employee making the inspection shall give to the owner, operator, or agent in charge a report in writing setting forth any conditions or practices observed by him which, in his judgment, indicate that any food, drug, device, or cosmetic in such establishment (1) consists in whole or in part of any filthy, putrid, or decomposed substance, or (2) has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health. A copy of such report shall be sent promptly to the Secretary.

(c) If the officer or employee making any such inspection of a factory, warehouse, or other establishment has obtained any sample in the course of the inspection, upon completion of the inspection and prior to leaving the premises he shall give to the owner, operator, or agent in charge a receipt describing the samples obtained.

(d) Whenever in the course of any such inspection of a factory or other establishment where food is manufactured, processed, or packed, the officer or employee making the inspection obtains a sample of any such food, and an analysis is made of such sample for the purpose of ascertaining whether such food consists in whole or in part of any filthy, putrid, or decomposed substance, or is otherwise unfit for food, a copy of the results of such analysis shall be furnished promptly to the owner, operator, or agent in charge.

§ 135. Publicity

(a) The Secretary shall cause to be published from time to time reports summarizing all judgments, decrees, and court orders rendered under this chapter, including the nature of the charge and the disposition thereof.

(b) The Secretary may also cause to be disseminated information regarding food, drugs, devices, or cosmetics in situations involving, in the Secretary's opinion, imminent danger to health or gross deception of the consumer. Nothing in this section shall be construed to prohibit the Secretary from collecting, reporting, and illustrating the results of the investigations of the Department.

§ 136. Cost of certification of coal-tar colors

The admitting to listing and certification of coal-tar colors, in accordance with regulations prescribed under this chapter, shall be performed only upon payment of fees specified in such regulations, as may be necessary to provide, maintain, and equip an adequate service for such purposes.

§ 137. Revision of Pharmacopoeia; development of analysis and tests

The Secretary, in carrying into effect the provisions of this chapter, may cooperate with associations and scientific societies in the revision of the United States Pharmacopoeia and in the development of methods of analysis and mechanical and physical tests necessary to carry out the work of the Food and Drug Administration.

SUBCHAPTER VII—ENFORCEMENT AND PENALTIES

§ 151. Prohibited acts

The following acts and the causing thereof are prohibited:

(1) The introduction or delivery for introduction into interstate commerce of any food, drug, device, or cosmetic that is adulterated or misbranded.

(2) The adulteration or misbranding of any food, drug, device, or cosmetic in interstate commerce.

(3) The receipt in interstate commerce of any food, drug, device, or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise.

(4) The introduction or delivery for introduction into interstate commerce of any article in violation of section 56 or 75 of this title.

(5) The refusal to permit access to or copying of any record as required by section 133 of this title.

(6) The refusal to permit entry or inspection as authorized by section 134 of this title.

(7) The manufacture within any Territory of any food, drug, device, or cosmetic that is adulterated or misbranded.

(8) The giving of a guaranty or undertaking referred to in section 152 (c) (2) of this title which is false, except by a person who relied upon a guaranty or undertaking to the same effect signed by, and containing the name and address of, the person residing in the United States from whom he received in good faith the food, drug, device, or cosmetic; or the giving of a guaranty or undertaking referred to in section 152 (c) (3) of this title which guaranty or undertaking is false.

(9) Forging, counterfeiting, simulating, or falsely representing, or

without proper authority using any mark, stamp, tag, label, or other identification device authorized or required by regulations promulgated under the provisions of sections 55 (b), 56, 57, 74, 76, 77, or 94 of this title.

(10) The using by any person to his own advantage, or revealing, other than to the Secretary or officers or employees of the Department, or to the courts when relevant in any judicial proceeding under this chapter, any information acquired under authority of sections 56, 75, 76, 77, or 134 of this title concerning any method or process which as a trade secret is entitled to protection.

(11) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to, a food, drug, device, or cosmetic, if such act is done while such article is held for sale (whether or not the first sale) after shipment in interstate commerce and results in such article being adulterated or misbranded.

(12) The using, on the labeling of any drug or in any advertising relating to such drug, of any representation or suggestion that an application with respect to such drug is effective under section 75 of this title, or that such drug complies with the provisions of such section.

(13) The sale or offering for sale of colored oleomargarine or colored margarine, or the possession or serving of colored oleomargarine or colored margarine in violation of subsection (b) or (c) of section 59 of this title.

(14) The using, in labeling, advertising, or other sales promotion, of any reference to any report or analysis furnished in compliance with section 134 of this title.

§ 152. Penalties; exemptions

(a) Any person who violates any of the provisions of section 151 of this title shall be imprisoned not more than one year or fined not more than \$1,000, or both. Any person who commits such a violation after one conviction under this section has become final shall be imprisoned not more than three years or fined not more than \$10,000, or both.

(b) Notwithstanding the provisions of subsection (a) of this section, any person who violates any of the provisions of section 151 of this title, with intent to defraud or mislead, shall be imprisoned not more than three years or fined not more than \$10,000, or both.

(c) No person shall be subject to the penalties of subsection (a) of this section—

(1) for having received in interstate commerce any article and delivered it or proffered delivery of it, if such delivery or proffer was made in good faith, unless he refuses to furnish on request of an officer or employee designated by the Secretary the name and address of the person from whom he purchased or received such article and copies of all documents, if any, pertaining to the delivery of the article to him; or

(2) for having violated section 151 (1) or 151 (4) of this title, if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person residing in the United States from whom he received the article in good faith, to the effect, in case of an alleged violation of section 151 (1) of this title, that such article is not adulterated or misbranded, within the meaning of this chapter, designating this chapter, or to the effect, in case of an alleged violation of section 151 (4) of this title, that such article is not an article which may not, under the provisions of section 56 or 75 of this title, be introduced into interstate commerce; or

(3) for having violated section 151 (1) of this title, where the violation exists because the article is adulterated by reason of containing a coal-tar color not from a batch certified in accordance with the Secretary's regulations, if such person establishes a guaranty or undertaking signed by, and containing the name and address of, the manufacturer of the coal-tar color, to the effect that such color was from a batch certified in accordance with the applicable regulations promulgated by the Secretary under this chapter; or

(4) for having violated section 151 (2), 151 (3), or 151 (11) of this title by failure to comply with section 72 (f) of this title in respect to an article received in interstate commerce to which neither section 73 (a) nor section 73 (b) (1) is applicable, if the delivery or proffered delivery was made in good faith and the labeling at the time thereof contained the same directions for use and warning statements as were contained in the labeling at the time of such receipt of such article.

§ 153. Injunctions

(a) The United States district courts and the United States courts of the Territories shall have jurisdiction, for cause shown, and subject to the provisions of Rule 65 (a) (b) of the Federal Rules of Civil Procedure, to restrain violations of section 151 of this title, except paragraphs (5), (6), (8), (9), and (10), thereof.

(b) Any violation of an injunction or restraining order issued under this section, which also constitutes a violation of this chapter, shall be

tried by the court, or, upon demand of the accused, by a jury, in accordance with the practice and procedure applicable in the case of proceedings subject to the provisions of section 402 of Title 18.

§ 154. Libel for condemnation

(a) **GROUND AND JURISDICTION.**—Any article of food, drug, device, or cosmetic that is adulterated or misbranded when introduced into or while in interstate commerce or while held for sale (whether or not the first sale) after shipment in interstate commerce, or which may not, under the provisions of section 56 or 75 of this title, be introduced into interstate commerce, shall be liable to be proceeded against while in interstate commerce, or at any time thereafter, on libel of information and condemned in any district court of the United States within the jurisdiction of which the article is found.

(b) **PROCEDURE.**—The article shall be liable to seizure by process pursuant to the libel, and the procedure in cases under this section shall conform, as nearly as may be, to the procedure in admiralty; except that on demand of either party any issue of fact joined in any such case shall be tried by jury.

(c) **LIBELS FOR MISBRANDING LIMITED; CHANGE OF VENUE.**—No libel for condemnation for any alleged misbranding shall be instituted under this chapter, if there is pending in any court a libel for condemnation proceeding under this chapter based upon the same alleged misbranding, and not more than one such proceeding shall be instituted if no such proceeding is so pending, except that such limitations shall not apply—

(1) when such misbranding has been the basis of a prior judgment in favor of the United States, in a criminal, injunction, or libel for condemnation proceeding under this chapter, or

(2) when the Secretary has probable cause to believe from facts found, without hearing, by him or any officer or employee of the Department that the misbranded article is dangerous to health, or that the labeling of the misbranded article is fraudulent, or would be in a material respect misleading to the injury or damage of the purchaser or consumer.

In any case where the number of libel for condemnation proceedings is limited as above provided the proceeding pending or instituted shall, on application of the claimant, seasonably made, be removed for trial to any district agreed upon by stipulation between the parties, or, in case of failure to so stipulate within a reasonable time, the claimant may apply to the court of the district in which the seizure has been made, and such court, after giving the United

States attorney for such district reasonable notice and opportunity to be heard, shall by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the claimant's principal place of business, to which the case shall be removed for trial.

(d) CONSOLIDATION OF MULTIPLE PROCEEDINGS.—When libel for condemnation proceedings under this section, involving the same claimant and the same issues of adulteration or misbranding, are pending in two or more jurisdictions, such pending proceedings, upon application of the claimant seasonably made to the court of one such jurisdiction, shall be consolidated for trial by order of such court, and tried in (1) any district selected by the claimant where one of such proceedings is pending; or (2) a district agreed upon by stipulation between the parties. If no order for consolidation is so made within a reasonable time, the claimant may apply to the court of one such jurisdiction, and such court, after giving the United States attorney for such district reasonable notice and opportunity to be heard, shall by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the claimant's principal place of business, in which all such pending proceedings shall be consolidated for trial and tried. Such order of consolidation shall not apply so as to require the removal of any case the date for trial of which has been fixed. The court granting such order shall give prompt notification thereof to the other courts having jurisdiction of the cases covered thereby.

(e) REMOVAL FOR TRIAL.—In the case of removal for trial of any case as provided by subsection (c) or (d) of this section—

(1) The clerk of the court from which removal is made shall promptly transmit to the court in which the case is to be tried all records in the case necessary in order that such court may exercise jurisdiction.

(2) The court to which such case is removed shall have the powers and be subject to the duties, for purposes of the case, which the court from which removal is made would have, or to which such court would be subject, if such case is not removed.

(f) SAMPLES OF SEIZED GOODS.—The court at any time after seizure up to a reasonable time before trial shall by order allow any party to a condemnation proceeding, his attorney or agent, to obtain a representative sample of the article seized and a true copy of the analysis, if any, on which the proceeding is based and the identifying marks or numbers, if any, of the packages from which the samples analyzed were obtained.

(g) **DISPOSITION AFTER CONDEMNATION.**—Any food, drug, device, or cosmetic condemned under this section shall, after entry of the decree, be disposed of by destruction or sale as the court may direct in accordance with the provisions of this section. If sold, the proceeds thereof, less the legal costs and charges, shall be paid into the Treasury of the United States. Such article shall not be sold under such decree contrary to the provisions of this chapter or the laws of the jurisdiction in which sold. After entry of the decree and upon the payment of the costs of such proceedings and the execution of a good and sufficient bond conditioned that such article shall not be sold or disposed of contrary to the provisions of this chapter or the laws of any State or Territory in which sold, the court may by order direct that such article be delivered to the owner thereof to be destroyed or brought into compliance with the provisions of this chapter under the supervision of an officer or employee duly designated by the Secretary, and the expenses of such supervision shall be paid by the person obtaining release of the article under bond. Any article condemned by reason of its being an article which may not, under section 56 or 75 of this title, be introduced into interstate commerce, shall be disposed of by destruction.

(h) **COSTS.**—When a decree of condemnation is entered against the article, court costs and fees, and storage and other proper expenses, shall be awarded against the person, if any, intervening as claimant of the article.

§ 155. Hearing before violation reported

Before any violation of this chapter is reported by the Secretary to any United States attorney for institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his views, either orally or in writing, with regard to such contemplated proceeding.

§ 156. Report of minor violations

Nothing in this chapter shall be construed as requiring the Secretary to report for prosecution, or for the institution of libel or injunction proceedings, minor violations of this chapter whenever the Secretary believes that the public interest will be adequately served by a suitable written notice or warning.

§ 157. Proceedings in name of United States; subpoenas

All proceedings for the enforcement, or to restrain violations, of this chapter shall be by and in the name of the United States. Sub-

penas for witnesses who are required to attend a court of the United States, in any district, may run into any other district in any such proceeding.

CHAPTER 5—MILK AND CREAM

SUBCHAPTER I—IMPORTATION OF MILK AND CREAM

Sec.

201. Definitions.

202. Permits for importation.

203. Unfitness for importation.

204. Inspection, issue of permits; regulations.

205. Penalties.

206. State powers concerning milk and cream.

SUBCHAPTER II—FILLED MILK

Sec.

221. Definitions.

222. Filled milk as injurious.

223. Regulations.

224. Penalties.

SUBCHAPTER I—IMPORTATION OF MILK AND CREAM

§ 201. Definitions

As used in this subchapter—

1. "Person" means an individual, partnership, corporation, or association.

2. "United States" means the continental United States.

§ 202. Permits for importation

No person shall import milk and cream into the United States unless the person by whom it is shipped or transported holds a valid permit from the Secretary of Health, Education, and Welfare.

§ 203. Unfitness for importation

Milk or cream shall be considered unfit for importation—

(1) when all cows producing such milk or cream are not healthy and a physical examination of all such cows has not been made within one year previous to such milk being offered for importation;

(2) when such milk or cream, if raw, is not produced from cows which have passed a tuberculin test applied by a duly authorized official veterinarian of the United States, or of the country in which such milk or cream is produced, within one year previous to the time of the importation, showing that such cows are free from tuberculosis;

(3) when the sanitary conditions of the dairy farm or plant in which it is produced or handled do not score at least fifty points out of one hundred points according to the current methods for scoring as provided by the score cards used by the Bureau of Dairy Industry of the United States Department of Agriculture;

(4) if the number of bacteria per cubic centimeter exceeds in the case of raw milk three hundred thousand, in the case of raw cream seven hundred and fifty thousand, in the case of pasteurized milk one hundred thousand, and in the case of pasteurized cream five hundred thousand;

(5) when the temperature of milk or cream at the time of importation exceeds fifty degrees Fahrenheit.

§ 204. Inspection; issue of permits; regulations

(a) The Secretary of Health, Education, and Welfare shall cause such inspections to be made as are necessary to insure that milk and cream are produced and handled in compliance with section 203 of this title. When the Secretary finds that milk or cream is produced and handled so as not to be unfit for importation under clauses (1), (2), and (3) of section 203 of this title, the Secretary shall issue to persons making application therefor permits to ship milk or cream into the United States. In lieu of the inspections to be made by or under the direction of the Secretary, the Secretary may, in the Secretary's discretion, accept a duly certified statement signed by a duly accredited official of an authorized department of any foreign government or of any State of the United States or any municipality thereof that the provisions in clauses (1), (2), and (3) of section 203 of this title have been complied with. Such certificate shall be in the form prescribed by the Secretary.

(b) The Secretary may, in the Secretary's discretion, waive the requirements of paragraph (4) of section 203 of this title when issuing permits to operators of condenseries in which milk or cream is used when sterilization of the milk or cream is a necessary process, except that no milk or cream shall be imported whose bacterial count per cubic centimeter in any event exceeds one million two hundred thousand. Such requirements shall not be waived unless the farm producing such milk to be imported is within a radius of fifteen miles of the condensery in which it is to be processed. If milk or cream imported when the requirements of section 203, paragraph (4), of this title, have been so waived, is sold, used, or disposed of in its raw state or otherwise than as condensed milk by any person, the permit shall be revoked and the importer shall be subject to fine, imprisonment, or other penalty prescribed by this subchapter.

(c) The Secretary shall waive the requirements of paragraphs (2) and (5) of section 203 of this title insofar as the same relate to milk when issuing permits to operators of, or to producers for delivery

to, creameries and condensing plants in the United States within twenty miles of the point of production of the milk, and who import no raw milk except for pasteurization or condensing. If milk imported when the requirements of paragraphs (2) and (5) of section 203 of this title have been so waived is sold, used, or disposed of in its raw state, or otherwise than as pasteurized, condensed, or evaporated milk by any person, the permit shall be revoked and the importer shall be subjected to fine, imprisonment, or other penalty prescribed by this subchapter.

(d) The Secretary shall make and enforce such regulations as the Secretary deems necessary to carry out the purpose of this subchapter for the issuance of permits to import milk and cream, for the handling of milk and cream, for the inspection of milk, cream, cows, barns, and other facilities used in the production and handling of milk and cream, and for the handling, keeping, transporting, and importing of milk and cream. Unless and until the Secretary provides for inspections to ascertain that paragraphs (1), (2), and (3) of section 203 of this title have been complied with, the Secretary shall issue temporary permits to any applicants therefor to ship or transport milk or cream into the United States.

(e) The Secretary may suspend or revoke any permit for the shipment of milk or cream into the United States when the Secretary finds that the holder thereof has failed to comply with the provisions of, or has violated, this subchapter, or any of the regulations made under this subchapter, or that the milk or cream brought or shipped by the holder of such permit into the United States is not produced and handled in conformity with, or that the quality thereof does not conform to, all of the provisions of section 203 of this title.

§ 205. Penalties

(a) No person in the United States shall receive milk or cream imported into the United States unless the importation is in accordance with the provisions of this subchapter.

(b) Any person who knowingly violates any provision of this subchapter shall, in addition to all other penalties prescribed by law, be fined not more than \$2,000 or imprisoned not more than one year, or both.

§ 206. State powers concerning milk and cream

Nothing in this subchapter shall be construed to affect the powers of any State, or any political subdivision thereof, to regulate the shipment of milk or cream into, or the handling, sale, or other dis-

position of milk or cream in, such State or political subdivision after the milk or cream has been lawfully imported under this subchapter.

SUBCHAPTER II—FILLED MILK

§ 221. Definitions

As used in this subchapter—

1. "Filled milk" means any milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat, so that the resulting product is in imitation or semblance of milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated. This definition does not include any distinctive proprietary food compound not readily mistaken in taste for milk or cream or for evaporated, condensed, or powdered milk, or cream where such compound (1) is prepared and designed for feeding infants and young children and customarily used on the order of a physician; (2) is packed in individual cans containing not more than sixteen and one-half ounces and bearing a label in bold type that the content is to be used only for such purpose; (3) is shipped in interstate or foreign commerce exclusively to physicians, wholesale and retail druggists, orphan asylums, child-welfare associations, hospitals, and similar institutions and generally disposed of by them.

2. "Interstate or foreign commerce" means commerce (1) between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; (2) between points within the same State, Territory, or possession, or within the District of Columbia, but through any place outside thereof; or (3) within any Territory or possession, or within the District of Columbia.

3. "Person" means an individual, partnership, corporation, or association.

§ 222. Filled milk as injurious

Filled milk is an adulterated article of food, injurious to the public health, and its sale constitutes a fraud upon the public.

§ 223. Regulations

The Secretary of Health, Education, and Welfare shall make and enforce such regulations as the Secretary deems necessary to carry out the purposes of this subchapter.

§ 224. Penalties

Any person who manufactures within any Territory or possession, or within the District of Columbia, or ships or delivers for shipment in

interstate or foreign commerce, any filled milk, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

CHAPTER 7—TEA IMPORTATION

Sec.

- 261. Substandard tea importation; materials for manufacturing.
- 262. Standards; duplicate samples.
- 263. Importer's bonds and fees; sampling and examination.
- 264. Permit for delivery; inferior grades; partial delivery.
- 265. Examiners.
- 266. Examination according to usages of trade.
- 267. Re-examination by Appeals Board; disposition of tea.
- 268. Procedure for re-examination; assistance of experts.
- 269. Reimporting rejected teas; forfeitures.
- 270. Regulations.

§ 261. Substandard tea importation; materials for manufacturing

(a) No person shall import or bring into the United States any merchandise as tea which is inferior in purity, quality, and fitness for consumption to the standards provided in section 262 of this title.

(b) Nothing in this chapter shall affect or prevent the importation into the United States, under such regulations as the Secretary of Health, Education, and Welfare prescribes, of any merchandise as tea which may be inferior in purity, quality, and fitness for consumption to the standards established by the Secretary, or of any tea waste, tea siftings, or tea sweepings, for the sole purpose of manufacturing theine, caffeine, or other chemical products whereby the identity and character of the original material is entirely destroyed or changed. Importers and manufacturers who import such tea, tea waste, tea siftings, or tea sweepings into the United States shall give suitable bond, approved as to amount and securities by the collector of customs at the port of entry, conditioned that said imported material shall be used only for the purposes provided in this subsection, under regulations prescribed by the Secretary.

§ 262. Standards; duplicate samples

The Board of Tea Experts shall prepare and submit standard samples of tea to the Secretary of Health, Education, and Welfare who, upon the Board's recommendation, shall fix and establish uniform standards of purity, quality, and fitness for consumption of all kinds of teas imported into the United States. The Secretary shall procure and deposit in the customhouses of the ports of New York, Chicago, San Francisco, and such other ports as the Secretary may determine, duplicate samples of such standards, and the Secretary shall procure a sufficient number of other duplicate samples to supply the importers and dealers in tea at all ports desiring the same at cost. All teas, or

merchandise described as tea, of inferior purity, quality, and fitness for consumption to such standards shall be deemed within the prohibition of section 261 of this title.

§ 263. Importer's bonds and fees; sampling and examination

(a) On making entry at the customhouse of all teas, or merchandise described as tea, imported into the United States, the importer or consignee shall give a bond to the collector of the port that such merchandise shall not be removed from the warehouse until released by the collector, after it shall have been duly examined with reference to its purity, quality, and fitness for consumption. For the purpose of such examination samples of each line in every invoice of tea shall be submitted by the importer or consignee to the examiner, together with the sworn statement of such importer or consignee that such samples represent the true quality of each part of the invoice and accord with the specifications therein contained, or in the discretion of the Secretary, such samples shall be obtained by the examiner and compared by him with the standards established by this chapter. Where entry is made at ports where there is no qualified examiner as provided in section 265 of this title, the consignee or importer shall furnish such samples and sworn statement to the collector or other revenue officer to whom is committed the collection of duties, who shall also draw or cause to be drawn samples of each line in every invoice and shall forward the same to a duly qualified examiner as provided in that section. The bond required by this section shall also be conditioned for the payment of all customhouse charges which may attach to such merchandise prior to its being released or destroyed, as the case may be, under the provisions of this chapter.

(b) The collector shall not examine for importation, or release, any tea, or merchandise described as tea, under this chapter unless the importer or consignee thereof, prior to such examination, has paid for deposit into the Treasury of the United States as miscellaneous receipts, a fee of 3.5 cents for each hundred weight or fraction thereof of such tea and merchandise.

§ 264. Permit for delivery; inferior grades; partial delivery

If, after an examination as provided in section 263 of this title, the tea is found by the examiner to be equal in purity, quality, and fitness for consumption to the standards provided in this chapter, and no reexamination is demanded by the collector as provided in section 267 of this title, a permit shall at once be granted to the importer or consignee declaring the tea free from the control of the customs

authorities. If such tea, or merchandise described as tea, is found, in the opinion of the examiner, to be inferior in purity, quality, and fitness for consumption to such standards, the importer or consignee shall be immediately notified, and the tea, or merchandise described as tea, shall not be released by the customhouse, unless on a reexamination called for by the importer or consignee the finding of the examiner is found to be erroneous. If a portion of the invoice is passed by the examiner, a permit shall be granted for that portion and the remainder held for further examination, as provided in said section 267.

§ 265. Examiners

The examination provided for by this chapter shall be made by a duly qualified examiner at a port where standard samples are established. Where the merchandise is entered at ports where there is no qualified examiner, the examination shall be made at that one of said ports which is nearest the port of entry, and for this purpose samples obtained in the manner prescribed by section 263 of this title shall be forwarded to the proper port by the collector or chief officer at the port of entry.

§ 266. Examination according to usages of trade

In all cases of examination or reexamination of teas, or merchandise described as tea, by examiners or the United States Board of Tea Appeals under the provisions of this chapter, the purity, quality, and fitness for consumption of the same shall be tested according to the usages and customs of the tea trade, including the testing of an infusion of the same in boiling water, and, if necessary, chemical analysis.

§ 267. Reexamination by Appeals Board; disposition of tea

(a) If the collector, importer, or consignee protests against the finding of the examiner, the matter in dispute shall be referred for decision to the United States Board of Tea Appeals.

(b) If the Board, after examination, finds the tea in question to be equal in purity, quality, and fitness for consumption to the proper standards, the collector shall issue a permit for its release and delivery to the importer.

(c) If upon final reexamination by the Board the tea is found to be inferior in purity, quality, and fitness for consumption to the said standards, the importer or consignee shall give a bond, with security satisfactory to the collector, to export said tea, or merchandise described as tea, out of the limits of the United States within a period of six months after such final reexamination, and if the same has not been exported within the time specified, the collector, at the expiration of that time, shall cause the same to be destroyed.

§ 268. Procedure for reexamination; assistance of experts

In cases of reexamination of teas, or merchandise described as teas, by the United States Board of Tea Appeals in pursuance of the provisions of this chapter, the examiner shall put up and seal samples of the tea, or merchandise described as tea, in dispute, in the presence of the importer or consignee if he so desires, and transmit them to the Board, together with a copy of his finding, setting forth the cause of condemnation and the claim or ground of the protest of the importer relating to the same. Such samples and papers shall be distinguished by an identifying mark.

The decision of the Board shall be in writing, signed by its members, and transmitted with the record and samples to the collector within three days after its rendition. The collector shall forthwith furnish the examiner and the importer or consignee with a copy of such decision.

The United States Board of Tea Appeals may obtain the advice, when necessary, of persons skilled in the examination of teas, who shall each receive for his services in any particular case a compensation not exceeding \$5.

§ 269. Reimporting rejected teas; forfeiture

No imported teas which have been rejected by a customs examiner or by the United States Board of Tea Appeals, and exported under the provisions of this chapter, shall be reimported into the United States. Any such teas so reimported shall be forfeited.

§ 270. Regulations

The Secretary of Health, Education, and Welfare may enforce this chapter by appropriate regulations.

CHAPTER 9—CAUSTIC POISONS

Sec.

311. Definitions.

312. Misbranded shipments.

313. Misbranded imports.

314. Removal of labels.

315. Enforcement.

316. Libel for condemnation.

317. Penalties.

318. Institution of condemnation and criminal proceedings.

319. Construction; application of other provisions.

§ 311. Definitions

As used in this chapter, unless the context otherwise requires—

1. "Dangerous caustic or corrosive substance" means:

(a) hydrochloric acid and any preparation containing free or chemically unneutralized hydrochloric acid (HCl) in a concentration of 10 per centum or more;

(b) sulphuric acid and any preparation containing free or chemically unneutralized sulphuric acid (H_2SO_4) in a concentration of 10 per centum or more;

(c) nitric acid or any preparation containing free or chemically unneutralized nitric acid (HNO_3) in a concentration of 5 per centum or more;

(d) carbolic acid ($\text{C}_6\text{H}_5\text{OH}$), otherwise known as phenol, and any preparation containing carbolic acid in a concentration of 5 per centum or more;

(e) oxalic acid and any preparation containing free or chemically unneutralized oxalic acid ($\text{H}_2\text{C}_2\text{O}_4$) in a concentration of 10 per centum or more;

(f) any salt of oxalic acid and any preparation containing any such salt in a concentration of 10 per centum or more;

(g) acetic acid or any preparation containing free or chemically unneutralized acetic acid ($\text{HC}_2\text{H}_3\text{O}_2$) in a concentration of 20 per centum or more;

(h) hypochlorous acid, either free or combined, and any preparation containing the same in a concentration so as to yield 10 per centum or more by weight of available chlorine, excluding calx chlorinata, bleaching powder, and chloride of lime;

(i) potassium hydroxide and any preparation containing free or chemically unneutralized potassium hydroxide (KOH), including caustic potash and Vienna paste, in a concentration of 10 per centum or more;

(j) sodium hydroxide and any preparation containing free or chemically unneutralized sodium hydroxide (NaOH), including caustic soda and lye, in a concentration of 10 per centum or more;

(k) silver nitrate, sometimes known as lunar caustic, and any preparation containing silver nitrate (AgNO_3) in a concentration of 5 per centum or more; and

(l) ammonia water and any preparation containing free or chemically uncombined ammonia (NH_3), including ammonium hydroxide and "hartshorn", in a concentration of 5 per centum or more.

2. "Misbranded parcel, package, or container" means a retail parcel, package, or container of any dangerous caustic or corrosive substance not bearing a conspicuous, easily legible label or sticker, containing—

(a) the common name of the substance;

(b) the name and place of business of the manufacturer, packer, seller, or distributor;

(c) the word "poison", running parallel with the main body of reading matter on the label or sticker, on a clear, plain background of a distinctly contrasting color, in uncondensed gothic capital letters, the letters to be not less than twenty-four-point size unless there is on the label or sticker no other type so large, in which event the type shall be not smaller than the largest type on the label or sticker; and

(d) directions for treatment in case of accidental personal injury by any dangerous caustic or corrosive substance, except that such directions need not appear on labels or stickers, on parcels, packages, or containers at the time of shipment or of delivery for shipment by manufacturers and wholesalers for other than household use.

3. "Interstate or foreign commerce" means commerce (a) between any State, Territory, or possession, or the District of Columbia, and any place outside thereof, or (b) between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof, or (c) within any Territory or possession, or the District of Columbia.

4. "Person" means an individual, partnership, corporation, or association.

§ 312. Misbranded shipments

(a) No person shall ship or deliver for shipment in interstate or foreign commerce or receive from shipment in such commerce any dangerous caustic or corrosive substance for sale or exchange, or sell or offer for sale any such substance in any Territory or possession or in the District of Columbia, in a misbranded parcel, package, or container suitable for household use.

(b) The provisions of subsection (a) of this section do not apply—

(1) to any regularly established common carrier shipping or delivering for shipment, or receiving from shipment, any such substance in the ordinary course of its business as a common carrier; nor

(2) to any person in respect of any such substance shipped or delivered for shipment, or received from shipment, for export to any foreign country, in a parcel, package, or container branded in accordance with the specifications of a foreign purchaser and in accordance with the laws of the foreign country; nor

(3) to any dealer who establishes a guaranty signed by, and containing the name and address of, the wholesaler, jobber, manufacturer, or other party residing in the United States, from whom he purchased such articles, to the effect that the articles are not misbranded within the meaning of this chapter. In such case the person giving such

guaranty shall be amenable to the prosecutions, fines, and other penalties which would otherwise attach, in due course, to the dealer under the provisions of this chapter.

§ 313. Misbranded imports

(a) Whenever any dangerous caustic or corrosive substance is offered for importation and the Secretary of Health, Education, and Welfare has reason to believe that such substance is being shipped in interstate or foreign commerce in violation of section 312 of this title, the Secretary shall give due notice and opportunity for hearing thereon to the owner or consignee and certify such fact to the Secretary of the Treasury, who shall thereupon either (1) refuse admission and delivery to the consignee of such substance, or (2) deliver such substance to the consignee pending examination, hearing, and decision in the matter, on the execution of a penal bond to the amount of the full invoice value of such substance, together with the duty thereon, if any, and to the effect that on refusal to return such substance for any cause to the Secretary of the Treasury when demanded, for the purpose of excluding it from the country or for any other purpose, the consignee shall forfeit the full amount of the bond.

(b) If, after proceeding in accordance with subsection (a) of this section, the Secretary is satisfied that such substance offered for importation was shipped in interstate or foreign commerce in violation of any provision of this chapter, the Secretary shall certify the fact to the Secretary of the Treasury, who shall thereupon notify the owner or consignee and cause the sale or other disposition of such substance refused admission and delivery or entered under bond, unless it is exported by the owner or consignee or labeled by him so as to conform to the law within three months from the date of such notice, under such regulations as the Secretary of the Treasury may prescribe. All charges for storage, cartage, or labor on any such substance refused admission or delivery or entered upon bond shall be paid by the owner or consignee. In default of such payment such charges shall constitute a lien against any future importations made by such owner or consignee.

§ 314. Removal of labels

No person shall alter, mutilate, destroy, obliterate, or remove any label or sticker required by this chapter to be placed on any dangerous caustic or corrosive substance, if such substance is being—

- (1) shipped in interstate or foreign commerce; or
- (2) held for sale or exchange after having been so shipped; or

(3) held for sale or exchange in any Territory or possession or in the District of Columbia.

§ 315. Enforcement

(a) Except as otherwise specifically provided in this chapter, the Secretary of Health, Education, and Welfare shall enforce its provisions.

(b) For enforcing the provisions of sections 313, 316, and 317 of this title, the Secretary may cause investigations, inspections, analyses, and tests to be made and samples to be collected, of any dangerous caustic or corrosive substance. The Department of Health, Education and Welfare shall pay to the person entitled, upon his request, the reasonable market value of any such sample taken. If it appears from the inspection, analysis, or test of any dangerous caustic or corrosive substance that such substance is in a misbranded package, parcel, or container suitable for household use, the Secretary shall cause notice thereof to be given to any person who may be liable for any violation of section 312 or 314 of this title in respect of such substance. Any person so notified shall be given an opportunity to be heard under the Secretary's regulations. If it appears that such person has violated the provisions of section 312 or 314 of this title, the Secretary shall at once certify the facts to the proper United States attorney, with a copy of the results of the inspection, analysis, or test duly authenticated under oath by the person making it.

(c) For the enforcement of his functions under this chapter the Secretary may—

(1) prescribe and promulgate necessary regulations.

(2) cooperate with any department or agency of the Government, with any State, Territory, or possession, or with the District of Columbia, or with any department, agency, or political subdivision thereof, or with any person.

(3) appoint officers and employees necessary for the execution of this chapter and fix their salaries in accordance with the Classification Act of 1949.

(4) make such expenditures, including expenditures for personal services and rent at the seat of government and elsewhere, and for law books, books of reference, and periodicals, required for the execution of the Secretary's functions under this chapter and as provided for by the Congress from time to time.

(5) give notice, by publication in such manner as the Secretary prescribes by regulation, of the judgment of the court in any case under the provisions of this chapter.

§ 316. Libel for condemnation

(a) Any dangerous caustic or corrosive substance in a misbranded parcel, package, or container suitable for household use shall be liable to be proceeded against in the United States district court for any judicial district in which the substance is found and to be seized for confiscation by a process of libel for condemnation, if such substance is being—

- (1) shipped in interstate or foreign commerce, or
- (2) held for sale or exchange after having been so shipped, or
- (3) held for sale or exchange in any Territory or possession or in the District of Columbia.

(b) If such substance is condemned as misbranded by the court it shall be disposed of in the discretion of the court—

- (1) by destruction;
- (2) by sale. The proceeds of the sale, less legal costs and charges, shall be paid into the Treasury as miscellaneous receipts. Such substance shall not be sold in any jurisdiction contrary to the provisions of this chapter or the laws of such jurisdiction, and the court may require the purchaser at any such sale to label such substance in compliance with law before the delivery thereof; or
- (3) by delivery to the owner thereof upon the payment of legal costs and charges and execution and delivery of a good and sufficient bond to the effect that such substance will not be sold or otherwise disposed of in any jurisdiction contrary to the provisions of this chapter or the laws of such jurisdiction.

(c) Proceedings in such libel cases shall conform, as nearly as may be, to suits in rem in admiralty, except that either party may demand trial by jury on any issue of fact if the value in controversy exceeds \$20. In case of a jury trial the verdict of the jury shall have the same effect as a finding of the court upon the facts. All such proceedings shall be at the suit and in the name of the United States.

§ 317. Penalties

(a) Any person who violates any provision of section 312 or 314 of this title shall be fined not more than \$1,000 or imprisoned not more than one year, or both. Any person who commits such a violation after one conviction under this section has become final shall be fined not more than \$10,000 or imprisoned not more than three years, or both.

(b) Notwithstanding the provisions of subsection (a) of this section, any person who violates any provision of section 312 or 314 of this

title, with intent to defraud or mislead, shall be fined not more than \$10,000 or imprisoned not more than three years, or both.

§ 318. Institution of condemnation and criminal proceedings

Each United States attorney to whom the Secretary shall report any violation of section 312 or 314 of this title or to whom any health, medical, or drug officer or agent of any State, Territory, or possession, or of the District of Columbia presents satisfactory evidence of any such violation, shall cause libel for condemnation and criminal proceedings under sections 316 and 317 of this title to be commenced and prosecuted in the proper court of the United States, without delay, for the enforcement of the condemnation and penalties provided in such sections.

§ 319. Construction; application of other provisions

(a) This chapter is not to be construed as modifying or limiting in any way the right of any person to manufacture, pack, ship, sell, barter, and distribute dangerous caustic or corrosive substances in parcels, packages, or containers, labeled as required by this chapter.

(b) The provisions of this chapter shall be held to be in addition to and not in substitution for the provisions of the following:

- (1) chapter 3 of this title;
- (2) chapter 6 of Title 7;
- (3) the Act entitled "An Act to regulate the practice of pharmacy and the sale of poisons in the District of Columbia, and for other purposes", approved May 7, 1906, as amended.

PART II.—ANIMALS, POULTRY AND MEATS

CHAPTER	Sec.
51. DEPARTMENT OF AGRICULTURE.....	451
53. MEAT INSPECTION.....	491
55. ANIMAL AND POULTRY DISEASE PREVENTION ; TRANSPORTATION, IMPORT, AND EXPORT.....	551
57. SERUMS AND ANALOGOUS PRODUCTS.....	611

CHAPTER 51—DEPARTMENT OF AGRICULTURE

Sec.
451. Administration of Part II; delegation of functions.

§ 451. Administration of Part II; delegation of functions

The provisions of this part shall be administered by the Secretary of Agriculture, except as otherwise provided herein. Such Secretary's functions under this part shall be performed by him or, subject to his direction and control, by such officers and agencies of the Department of Agriculture as he designates.

CHAPTER 53—MEAT INSPECTION

Sec.

- 491. Definitions.
- 492. Ante-mortem inspections.
- 493. Post-mortem inspections.
- 494. Meat food products.
- 495. Canning or packing meats and products; labels.
- 496. Inspection of establishments.
- 497. Time of inspections.
- 498. Meat for export; inspection; clearance.
- 499. Inspector's certificates.
- 500. Inspection, stamps or marks.
- 501. Farmers and retail butchers and dealers, exemptions.
- 502. Inspectors; appointment, powers, and duties.
- 503. Regulations.
- 504. Cost of inspections.
- 505. Transportation of uninspected and unmarked articles.
- 506. Transportation or sale in violation of chapter.
- 507. Forgery or misuse of marks or certificates.
- 508. Penalties generally.
- 509. Penalty for sale or transportation of unfit products by exempted persons.
- 510. Bribery; acceptance of gifts.
- 511. Horse meat.
- 512. Dairy products for export.
- 513. Reindeer.

§ 491. Definitions

As used in this chapter—

1. "establishment" means a slaughtering, canning, salting, packing, rendering, or similar establishment;

2. "farmer" means any natural person or partnership chiefly engaged in producing agricultural products on whose farm the number of cattle, calves, sheep, lambs, swine, or goats is in keeping with the size of the farm or with the volume or character of the agricultural products produced thereon, but does not mean any person or partnership engaged in producing agricultural products who—

(a) actively engages in buying or trading in cattle, calves, sheep, lambs, swine, or goats; or

(b) actively engages, directly or indirectly, in conducting a business which includes the slaughter of cattle, calves, sheep, lambs, swine, or goats for food purposes; or

(c) actively engages, directly or indirectly, in buying or selling meat or meat food products other than those prepared by any farmer on the farm; or

(d) actively engages, directly or indirectly, in salting, curing, or canning meat, or in preparing sausage, lard, or other meat food products; or

(e) slaughters, or permits any person to slaughter, on his or their farm cattle, calves, sheep, lambs, swine, or goats which are not actually owned by him or them;

3. "inspector" means an inspector appointed by the Secretary of Agriculture under the provisions of this chapter;

4. "retail butcher" or "retail dealer" means any person chiefly engaged in selling meat or meat food products to consumers only, except that the Secretary, at his discretion, may permit any retail butcher or retail dealer to transport in interstate or foreign commerce to consumers and meat retailers in any one week not more than five carcasses of cattle, twenty-five carcasses of calves, twenty carcasses of sheep, twenty-five carcasses of lambs, ten carcasses of swine, twenty carcasses of goats, or twenty-five carcasses of goat kids, or the equivalent of fresh meat therefrom, and to transport in interstate or foreign commerce to consumers only meat and meat food products which have been salted, cured, canned, or prepared as sausage, lard, or other meat food products, and which have not been inspected, examined, and marked as "Inspected and Passed" in accordance with this chapter and with the Secretary's rules and regulations;

5. "Secretary" means the Secretary of Agriculture.

§ 492. Ante-mortem inspections

For the purpose of preventing the use in interstate or foreign commerce of meat and meat food products which are unsound, unhealthful, unwholesome, or otherwise unfit for human food, the Secretary may cause to be made an examination and inspection of all cattle, sheep, swine, and goats, the meat and meat food products of which are to be used in interstate or foreign commerce, before they are allowed to enter into any establishment in which they are to be slaughtered. All such animals found on such inspection to show symptoms of disease shall be set apart and slaughtered separately from all other such animals. When so slaughtered the carcasses of such animals shall be subject to a careful examination and inspection, under the Secretary's rules and regulations, as provided for in this chapter.

§ 493. Post-mortem inspections

For the purpose set forth in section 492 of this title the Secretary shall cause to be made a post-mortem examination and inspection of the carcasses and parts thereof of all cattle, sheep, swine, and goats, which are to be prepared for human consumption at any establishment in any State or Territory or the District of Columbia for transportation or sale as articles of interstate or foreign commerce.

The carcasses and parts thereof of all such animals found to be sound, healthful, wholesome, and fit for human food shall be marked, stamped, tagged, or labeled as "Inspected and Passed".

All carcasses and parts thereof found to be unsound, unhealthful, unwholesome, or otherwise unfit for human food shall be marked, stamped, tagged, or labeled as "Inspected and Condemned", and all carcasses and parts thereof thus inspected and condemned shall be destroyed for food purposes by the establishment in the presence of an inspector.

After the first inspection, the inspectors shall, when they deem it necessary, reinspect the carcasses or parts thereof and if upon such reinspection any carcass or any part thereof is found to be unsound, unhealthful, unwholesome, or otherwise unfit for human food, it shall be destroyed for food purposes by the establishment in the presence of an inspector.

The Secretary may remove inspectors from any establishment which fails so to destroy any carcass or part thereof required to be destroyed by this section.

The provisions of this section apply to all carcasses or parts of carcasses of cattle, sheep, swine, and goats, or the meat or meat food products thereof which may be brought into any establishment, and such examination and inspection shall be had before the said carcasses or parts thereof are allowed to enter into any department wherein they are to be treated and prepared for meat food products. The provisions of this section also apply to all such products, which, after having been issued from any establishment, are returned to the same or to any similar establishment where such inspection is maintained.

§ 494. Meat food products

For the purpose set forth in section 492 of this title the Secretary shall cause to be made an examination and inspection of all meat food products prepared for interstate or foreign commerce in any establishment.

The inspectors shall mark, stamp, tag, or label as "Inspected and Passed" all such products found to be sound, healthful, and wholesome, and which contain no dyes, chemicals, preservatives, or ingredients which render such meat, or meat food products unsound, unhealthful, unwholesome, or unfit for human food.

The inspectors shall label, mark, stamp, or tag as "Inspected and Condemned" all such products found unsound, unhealthful, and unwholesome, or which contain dyes, chemicals, preservatives, or ingredients which render such meat or meat food products unsound, unhealthful, unwholesome, or unfit for human food, and all such condemned meat food products shall be destroyed for food purposes

by the establishment in the presence of an inspector. The Secretary may remove inspectors from any establishment which fails to so destroy such condemned meat food products.

Subject to the Secretary's rules and regulations the provisions of this section in regard to preservatives shall not apply to meat food products for export to any foreign country and which are prepared or packed according to the specifications or directions of the foreign purchaser, when no substance is used in the preparation or packing thereof in conflict with the laws of the foreign country to which said article is to be exported. If said article is in fact sold or offered for sale for domestic use or consumption, this paragraph shall not exempt said article from the operation of all the other provisions of this chapter.

§ 495. Canning or packing meats and products; labels

When any meat or meat food product prepared for interstate or foreign commerce which has been inspected under this chapter and marked "Inspected and Passed" is placed or packed in any can, pot, tin, canvas, or other receptacle or covering in any establishment where inspection is maintained under this chapter, the person preparing said product shall cause a label to be attached to said receptacle or covering, under the supervision of an inspector. Such label shall state that the contents thereof have been "Inspected and Passed" under the provisions of this chapter. No inspection and examination of meat or meat food products deposited or inclosed in cans, tins, pots, canvas, or other receptacle or covering in any such establishment shall be deemed to be complete until such meat or meat food products have been sealed or inclosed in said receptacle or covering under the supervision of an inspector.

No such meat or meat food products shall be sold or offered for sale by any person in interstate or foreign commerce under any false or deceptive name. Established trade name or names which are usual to such products and which are not false and deceptive and which are approved by the Secretary are permitted.

§ 496. Inspection of establishments

The Secretary shall cause inspections to be made, by experts in sanitation or by other competent inspectors, of all establishments defined in section 491 of this title in which cattle, sheep, swine, and goats are slaughtered and the meat and meat food products thereof are prepared for interstate or foreign commerce. The inspections shall be such as are necessary to inform the Secretary concerning the

sanitary conditions of the establishments, and to enable him to prescribe the rules and regulations of sanitation under which such establishments shall be maintained. Where the sanitary conditions of any such establishment are such that the meat or meat food products are rendered unclean, unsound, unhealthful, unwholesome, or otherwise unfit for human food, the Secretary shall refuse to allow said meat or meat food products to be labeled, marked, stamped, or tagged as "Inspected and Passed."

§ 497. Time of inspections

(a) The examinations and inspections required by sections 492, 493, 494, and 495 of this title shall be made during the nighttime as well as during the daytime when the slaughtering of the animals or preparation of the meat or meat food products is conducted during the nighttime.

(b) For the purposes of any examination and inspection under this chapter, the inspectors shall have access at all times, by day or night, whether the establishment is being operated or not, to every part of the establishment.

§ 498. Meat for export; inspection; clearance

(a) The Secretary shall cause to be made a careful inspection of the carcasses and parts thereof of all cattle, sheep, swine, and goats, when the fresh, salted, canned, corned, packed, cured, or otherwise prepared meat or meat food products of such animals is intended and offered for export to any foreign country, at such times and places and in such manner as he deems proper.

(b) No clearance shall be given to any vessel having on board any fresh, salted, canned, corned, or packed beef, mutton, pork, or goat meat, for export to and sale in a foreign country from any port in the United States, until the owner or shipper thereof shall obtain a certificate from an inspector that the cattle, sheep, swine, and goats from which such meat or meat food product was obtained, were sound and healthy at the time of inspection, and that their meat or meat food product is sound and wholesome, unless the Secretary has waived the requirement of such certificate for the country to which such meat or meat food product is to be exported.

§ 499. Inspectors' certificates

The inspectors may give official certificates of the sound and wholesome condition of cattle, sheep, swine, and goats, their carcasses and products as described in this chapter.

One copy of each such certificate shall be filed in the Department of Agriculture, another copy shall be delivered to the owner or shipper, and when the carcasses of cattle, sheep, swine, and goats, and the meat and meat food products thereof are sent abroad, a third copy shall be delivered to the chief officer of the vessel on which the shipment is made.

§ 500. Inspection, stamps or marks

The inspectors shall refuse to stamp, mark, tag, or label as "Inspected and Passed" any carcass or any part thereof, or meat food product therefrom, prepared in any establishment subject to this chapter until the same has actually been inspected and found to be sound, healthful, wholesome, and fit for human food, and to contain no dyes, chemicals, preservatives, or ingredients which render such meat food product unsound, unhealthful, unwholesome, or unfit for human food, and to have been prepared under proper sanitary conditions.

§ 501. Farmers and retail butchers and dealers, exemptions

(a) The provisions of this chapter requiring inspection to be made by the Secretary do not apply to animals slaughtered by any farmer on the farm and sold and transported in interstate or foreign commerce, nor to retail butchers and retail dealers in meat and meat food products, supplying their customers.

No meat and meat food products derived from animals slaughtered by any farmer on the farm which are salted, cured, canned, or prepared into sausage, lard, or other meat food products at any place other than by the farmer on the farm upon which the animals were slaughtered shall be transported in interstate or foreign commerce under the farmers' exemption provided in this section. All fresh meat and all farm-cured or prepared meat and meat food products derived from animals slaughtered by any farmer on the farm which are to be used in interstate or foreign commerce shall be clearly marked with the name and address of the farmer on whose farm the animals were slaughtered.

(b) The Secretary may maintain the inspection provided for in this chapter at any establishment notwithstanding the exemptions contained in this section, and notwithstanding that the persons operating the same may be retail butchers and retail dealers or farmers. Where the Secretary establishes such inspection, the provisions of this chapter shall apply notwithstanding such exemptions.

§ 502. Inspectors; appointment, powers, and duties

The Secretary shall from time to time appoint inspectors to make the examinations and inspections provided for under this chapter and to perform such other duties as are required by this chapter and the Secretary's rules and regulations.

§ 503. Regulations

The Secretary shall make such rules and regulations as are necessary for the efficient execution of the provisions of this chapter. All inspections and examinations under this chapter shall be made in the manner provided in the Secretary's rules and regulations which are not inconsistent with this chapter.

§ 504. Cost of inspections

(a) The United States shall bear the cost of inspections rendered under the requirements of this chapter except the cost of overtime pursuant to section 394 of title 7, and except as provided in subsection (b) of this section.

(b) Reimbursement may be made by any person for the expenses of meat inspection in excess of those which can be met from the amount appropriated for such purposes each year.

§ 505. Transportation of uninspected and unmarked articles

No person shall transport or offer for transportation, and no carrier of interstate or foreign commerce shall transport or receive for transportation from one State or Territory or the District of Columbia or to any other State or Territory or the District of Columbia, or to any place under the jurisdiction of the United States, or to any foreign country, any carcasses or parts thereof, meat, or meat food products thereof which have not been inspected, examined, and marked as "Inspected and Passed", in accordance with the terms of this chapter and with the Secretary's rules and regulations.

§ 506. Transportation or sale in violation of chapter

No person engaged in the interstate commerce of meat or meat food products shall transport or offer for transportation, sell or offer to sell, any such meat or meat food products in any State or Territory or in the District of Columbia or any place under the jurisdiction of the United States, other than in the State or Territory or in the District of Columbia or any place under the jurisdiction of the United States in which the slaughtering, packing, canning, rendering, or other similar establishment owned, leased, or operated by such person is located unless and until such person shall have complied with all of the provisions of this chapter.

§ 507. Forgery or misuse of marks or certificates

No person shall forge, counterfeit, simulate, or falsely represent, or shall without proper authority use, fail to use, or detach, or shall knowingly or wrongfully alter, deface, or destroy, or fail to deface or destroy, any of the marks, stamps, tags, labels, or other identification devices provided for in this chapter, or in and as directed by the rules and regulations prescribed under this chapter by the Secretary of Agriculture, on any carcasses, parts of carcasses, or the food product, or containers thereof, subject to the provisions of this chapter or any certificate in relation thereto, authorized or required by this chapter or by the said rules and regulations of the Secretary of Agriculture.

§ 508. Penalties generally

Except as provided in sections 509 and 510 of this title, whoever violates any of the provisions of this chapter shall be fined not more than \$10,000 or imprisoned not more than one year, or both.

§ 509. Penalty for sale or transportation of unfit products by exempted persons

Whoever, being a farmer, retail butcher, or retail dealer acting under the exemptions provided in section 502 of this title, sells or offers for sale or transportation for interstate or foreign commerce any meat or meat food products which are diseased, unsound, unhealthful, unwholesome, or otherwise unfit for human food, knowing that such meat food products are intended for human consumption, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

§ 510. Bribery; acceptance of gifts

(a) Whoever gives, pays, or offers, directly or indirectly, to any inspector, deputy inspector, chief inspector, or any other officer or employee of the United States authorized to perform any of the duties prescribed by this chapter or by the Secretary's rules and regulations, any money or other thing of value, with intent to influence such inspector, deputy inspector, chief inspector, or other officer or employee of the United States in the discharge of any duty provided for in this chapter, shall be fined not more than \$10,000 or imprisoned not more than three years, or both.

(b) Whoever, being an inspector, deputy inspector, chief inspector, or other officer or employee of the United States authorized to perform any of the duties prescribed by this chapter, accepts any money, gift, or other thing of value from any person, given with intent to influence his official action, or who receives or accepts from any person engaged

in interstate or foreign commerce any gift, money, or other thing of value, given with any purpose or intent whatsoever, shall be summarily discharged from office and shall be fined not more than \$10,000 or imprisoned not more than three years, or both.

§ 511. Horse meat

(a) No person shall transport or offer for transportation, and no carrier of interstate or foreign commerce shall transport or receive for transportation from one State or Territory or the District of Columbia to any other State or Territory or the District of Columbia or to any place under the jurisdiction of the United States or to any foreign country, any equine meat or food products thereof unless plainly and conspicuously labeled, marked, branded or tagged "Horse meat" or "Horse-meat Product", as the case may be, under rules and regulations prescribed by the Secretary.

(b) All the penalties, terms and provisions in this chapter, except the exemption in section 501 of this title applying to animals slaughtered by any farmer on a farm and to retail butchers and retail dealers in meat food products supplying their customers, shall be applicable to (1) horses, their carcasses, parts of carcasses, and meat food products thereof, (2) the establishments and other places where such animals are slaughtered or the meat or meat food products thereof are prepared or packed for interstate or foreign commerce, and (3) all persons who slaughter such animals or prepare or handle such meat or meat food products for interstate or foreign commerce.

§ 512. Dairy products for export

This chapter shall be deemed to include dairy products intended for exportation to any foreign country. The Secretary may apply, under rules and regulations prescribed by him, the provisions of this chapter for inspection and certification appropriate for ascertaining the purity and quality of such products, and may cause them to be so marked, stamped, or labeled as to secure their identity and make known in the markets of foreign countries to which they may be sent from the United States their purity, quality, and grade. All the provisions of this chapter relating to live cattle and products thereof for export shall apply to dairy products so inspected and certified.

§ 513. Reindeer

The provisions of this chapter may be extended to the inspection of reindeer.

CHAPTER 55—ANIMAL AND POULTRY DISEASE PREVENTION; TRANSPORTATION, IMPORT, AND EXPORT

Sec.

- 551. Measures and regulations to prevent introduction or spread of disease.
- 552. Control of diseases; cooperation with States.
- 553. Research laboratories for foot-and-mouth and other diseases.
- 554. Appointment of agents to make recommendations.
- 555. Cooperation with Mexico; foot-and-mouth disease and rinderpest; reports to Congress.
- 556. Cattle grubs, research and eradication.
- 557. International boundary fences.
- 558. Regulation of transportation and exportation generally.
- 559. Quarantine of infected areas.
- 560. Regulations for transportation from quarantined areas.
- 561. Transportation from quarantined areas prohibited; exceptions.
- 562. Transportation of diseased livestock or poultry prohibited.
- 563. Cattle reacting to tuberculin test, transportation of.
- 564. Domestic animals reacting to test for paratuberculosis or brucellosis.
- 565. Regulation and promotion of exports.
- 566. Suspension of importation.
- 567. Importation of diseased or exposed animals and poultry prohibited.
- 568. Importation prohibited except at quarantine stations.
- 569. Quarantine of imported animals and poultry.
- 570. Inspection and disposition of imported animals and poultry.
- 571. Disease control in District of Columbia.
- 572. Inspection by Department as precluding other inspections and fees.
- 573. Penalties.
- 574. Prosecution of violations; venue.

§ 551. Measures and regulations to prevent introduction or spread of disease

The Secretary of Agriculture may—

(1) make regulations and take measures to prevent the introduction or dissemination of the contagion of any communicable disease of animals or poultry from a foreign country into the United States or from one State or Territory of the United States or the District of Columbia to another, and

(2) seize, quarantine, and dispose of any hay, straw, forage, or similar material, or any meats, hides, or other animal or poultry products coming from an infected foreign country to the United States, or from one State or Territory or the District of Columbia in transit to another State or Territory or the District of Columbia whenever in his judgment such action is advisable to guard against the introduction or spread of such contagion.

§ 552. Control of diseases; cooperation with States

(a) The Secretary of Agriculture shall prepare rules and regulations for the speedy and effectual control and eradication of dangerous communicable diseases of domestic animals and poultry. He shall certify such rules and regulations to the executive authority of each State and Territory, and invite said authorities to cooperate in the execution and enforcement of the provisions of this chapter. Whenever the plans and methods of the Secretary are accepted by

any State or Territory in which any such disease is declared to exist, or whenever such State or Territory adopts plans and methods for the control and eradication of the disease and such plans and methods are accepted by the Secretary of Agriculture, and whenever the governor of a State or other properly constituted authorities signify their readiness to cooperate for the extinction of the disease in conformity with the provisions of this chapter, the Secretary may expend so much of the money appropriated for carrying out the provisions of this chapter as may be necessary in such investigations, and in such disinfection and quarantine measures as may be necessary to prevent the spread of the disease from one State or Territory into another.

(b) The Secretary of Agriculture, either independently or in cooperation with States or political subdivisions thereof, farmers' associations, and similar organizations, and individuals, may control and eradicate tuberculosis and paratuberculosis of animals, avian tuberculosis, brucellosis of domestic animals, southern cattle ticks, hog cholera and related swine diseases, scabies in sheep and cattle, dourine in horses, scrapie and blue tongue in sheep, incipient or potentially serious minor outbreaks of diseases in animals and poultry, and communicable diseases of animals and poultry which in the opinion of the Secretary constitute an emergency and threaten the livestock industry of the country, including the purchase and destruction of diseased or exposed animals and poultry, or the destruction of such animals and poultry and the payment of indemnities therefor, in accordance with such regulations as the Secretary prescribes. As used in this subsection, the term "State" includes the District of Columbia and the Territories and possessions of the United States.

§ 553. Research laboratories for foot-and-mouth and other diseases

The Secretary of Agriculture may establish research laboratories, including the acquisition of necessary land, buildings, or facilities, and also the making of research contracts under the authority contained in section 427i (a) of Title 7, for research and study, in the United States or elsewhere, of foot-and-mouth disease and other animal and poultry diseases which in his opinion constitute a threat to the livestock or poultry industry of the United States.

No live virus of foot-and-mouth disease may be introduced for any purpose into any part of the mainland of the United States except coastal islands separated therefrom by waters navigable for deep-

water navigation and which are not connected with the mainland by any tunnel, and except further, that in the event of outbreak of foot-and-mouth disease in this country, the Secretary of Agriculture may, at his discretion, permit said virus to be brought into the United States under adequate safeguards.

To carry out the provisions of this section, the Secretary may employ technical experts or scientists without regard to the Classification Act of 1949, but the number so employed shall not exceed five and the maximum compensation for each shall not exceed \$15,000 per annum. There is authorized to be appropriated such sums as Congress may deem necessary and, in addition, the Secretary may utilize, in carrying out this section, funds otherwise available for the control or eradication of such diseases.

§ 554. Appointment of agents to make recommendations

The Secretary of Agriculture may appoint two competent agents, who are practical stock raisers or experienced business men familiar with questions pertaining to commercial transactions in livestock or poultry, who shall, under the instructions of the Secretary, examine and report upon the best methods of treating, transporting, and caring for animals and poultry, and the means to be adopted for the control and eradication of contagious pleuropneumonia, and provide against the spread of other dangerous communicable diseases. The compensation of such agents shall be at the rate of \$10 per diem, with all necessary expenses, while engaged in the actual performance of their duties under this section, when absent from their usual place of business or residence.

§ 555. Cooperation with Mexico; foot-and-mouth disease and rinderpest; reports to Congress

(a) The Secretary of Agriculture may cooperate with the Government of Mexico in carrying out operations or measures to eradicate, suppress, or control, or to prevent or retard, foot-and-mouth disease or rinderpest in Mexico where he deems such action necessary to protect the livestock and related industries of the United States. In performing such operations or measures, the Government of Mexico shall be responsible for the authority necessary to carry them out on all lands and properties in Mexico and for such other facilities and means as are necessary in the discretion of the Secretary of Agriculture. The measure and character of cooperation carried out under this section on the part of the United States and on the part of the Government of Mexico, including the expenditure or use of funds appropriated pursuant to this section, shall be such as may be

prescribed by the Secretary of Agriculture. Arrangements for such cooperation shall be made through and in consultation with the Secretary of State. The authority contained in this section is in addition to and not in substitution for the authority of existing law.

(b) For purposes of this section, funds appropriated pursuant thereto may also be used for (1) the purchase or hire of passenger motor vehicles and aircraft, (2) printing and binding without regard to section 111 of Title 44, (3) the employment of civilian nationals of Mexico, and (4) the construction and operation of research laboratories, quarantine stations and other buildings and facilities.

(c) The Secretary of Agriculture shall make a report to the Congress on the last day of each month with respect to the activities carried on under this section.

§ 556. Cattle grubs, research and eradication

In order to protect, promote, and conserve livestock and livestock products and to minimize losses, the Secretary of Agriculture, either independently or in cooperation with States or subdivisions thereof, farmers' associations, and other organizations and individuals, may increase and intensify research and investigations into problems and methods relating to the eradication of cattle grubs and undertake measures to eradicate these parasites. As used in this section, the term "State" includes the District of Columbia and the Territories and possessions of the United States. Funds appropriated to carry out this section shall be expended in accordance with procedures prescribed by the Secretary.

§ 557. International boundary fences

The Secretary of Agriculture may permit the erection of fences along international boundary lines, but entirely within the territory of the United States, for the purpose of keeping out diseased animals and poultry.

§ 558. Regulation of transportation and exportation generally

In order to enable the Secretary of Agriculture effectually to control and eradicate dangerous communicable diseases in cattle and other livestock and poultry, and to prevent the spread of such diseases he shall establish such rules and regulations concerning the exportation and transportation of livestock and poultry from any place within the United States where he may have reason to believe such diseases may exist into and through any State or Territory, and into and through the District of Columbia and to foreign countries as he deems necessary. All such rules and regulations shall have the force of law.

§ 559. Quarantine of infected areas

The Secretary of Agriculture shall quarantine any State or Territory or the District of Columbia, or any portion of any State or Territory or the District of Columbia, when he determines the fact that cattle or other livestock or poultry in such State or Territory or District of Columbia are affected with any communicable disease. He shall give written or printed notice of the establishment of quarantine to the proper officers of railroad, steamboat, or other transportation companies doing business in or through any quarantined State or Territory or the District of Columbia, and publish such notice in such newspapers in the quarantined State or Territory or the District of Columbia as he may select.

§ 560. Regulations for transportation from quarantined areas

The Secretary of Agriculture shall, when the public safety will permit, make and promulgate rules and regulations which shall permit and govern the inspection, disinfection, certification, treatment, handling, and method and manner of delivery and shipment of cattle or other livestock or poultry from a quarantined State or Territory or the District of Columbia, and from the quarantined portion of any State or Territory or the District of Columbia, into any other State or Territory or the District of Columbia. The Secretary shall give notice of such rules and regulations in the manner provided in section 559 of this title for notice of establishment of quarantine.

§ 561. Transportation from quarantined areas prohibited; exceptions

(a) No railroad company and no owners or masters of any vessel or boat shall receive for transportation or transport, no person shall deliver for transportation to any railroad company or to the master or owner of any vessel or boat, and no person shall drive or cause to be driven on foot or transport or cause to be transported by private conveyance, any cattle or other livestock or poultry from any quarantined State or Territory or the District of Columbia, or from any quarantined portion thereof, into any other State or Territory or the District of Columbia, except in compliance with rules and regulations promulgated by the Secretary of Agriculture under section 560 of this title.

(b) The provisions of subsection (a) of this section and sections 559, 560, and 573 (b) of this title shall apply to any railroad company or other common carrier whose road or line forms any part of a route over which cattle or other livestock or poultry are transported in the

course of shipment from any quarantined State or Territory or the District of Columbia, or from the quarantined portion of any State or Territory or the District of Columbia, into any other State or Territory or the District of Columbia.

§ 562. Transportation of diseased livestock or poultry prohibited

No railroad company within the United States, and no owners or masters of any vessel or boat, shall receive for transportation or transport from one State or Territory to another, or from any State into the District of Columbia, or from the District into any State, any livestock or poultry affected with any communicable disease; nor shall any person deliver for such transportation to any railroad company, or master or owner of any boat or vessel, any livestock or poultry, knowing them to be affected with any communicable disease. No person shall drive on foot, or transport in private conveyance, from one State or Territory to another, or from any State into the District of Columbia, or from the District into any State, any livestock or poultry, knowing them to be affected with any communicable disease.

§ 563. Cattle reacting to tuberculin test, transportation of

Cattle which have reacted to the tuberculin test may be shipped, transported, or moved from one State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia, for immediate slaughter, in accordance with such rules and regulations as shall be prescribed by the Secretary of Agriculture. The Secretary may, in his discretion, and under such rules and regulations as he may prescribe, permit cattle which have been shipped for breeding or feeding purposes from one State, Territory, or the District of Columbia to another State, Territory, or the District of Columbia, and which have reacted to the tuberculin test subsequent to such shipment, to be reshipped in interstate commerce to the original owner.

§ 564. Domestic animals reacting to test for paratuberculosis or brucellosis

Domestic animals which have reacted to a test recognized by the Secretary of Agriculture for paratuberculosis or which, never having been vaccinated for brucellosis, have reacted to a test recognized by the Secretary of Agriculture for brucellosis, may be shipped, transported, or otherwise moved from one State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia for immediate slaughter in accordance with such rules and regulations as the Secretary of Agriculture may prescribe to prevent the dis-

semination of said diseases from one State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia. The Secretary of Agriculture may, in his discretion and under such rules and regulations as he may prescribe, permit domestic animals which have been moved from one State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia, for breeding purposes, and which, subsequent to such movement, have reacted to a test for brucellosis or paratuberculosis recognized by the Secretary of Agriculture, to be reshipped in interstate commerce to the original owner at the point of origin.

§ 565. Regulation and promotion of exports

(a) The Secretary of Agriculture may take such steps and adopt such measures, not inconsistent with the provisions of this chapter, as he deems necessary to prevent the exportation from any port of the United States to any port in a foreign country of livestock or poultry affected with any communicable disease.

(b) In order to promote the exportation of livestock and poultry from the United States the Secretary of Agriculture shall make special investigation as to the existence of any communicable disease, along the borders between the United States and foreign countries, and along the lines of transportation from all parts of the United States to ports from which livestock or poultry are exported, and shall, from time to time, establish such regulations concerning the exportation and transportation of livestock or poultry as the results of such investigations may require.

(c) The Secretary of Agriculture, by such orders and regulations as he prescribes, may cause inspection to be made of all cattle, sheep, other ruminants, swine, and poultry intended for exportation, and provide for the disinfection of all vessels engaged in the transportation thereof, and of all barges or other vessels used in the conveyance of such animals and poultry to the ocean steamer or other vessels, and of all attendants and their clothing, and of all headropes and other appliances used in such exportation. If, upon such inspection, any such animals or poultry are adjudged, under the Secretary's regulations, to be infected or to have been exposed to infection so as to be dangerous to other animals or poultry, they shall not be allowed to be placed upon any vessel for exportation. The expense of all the inspection and disinfection provided for in this subsection shall be borne by the owners of the vessels on which such animals or poultry are exported.

(d) The Secretary shall cause to be made a careful inspection of all cattle, sheep, swine, and goats intended and offered for export to foreign countries at such times and places, and in such manner, as he deems proper to ascertain whether such animals are free from disease.

(e) No clearance shall be given to any vessel having on board cattle; sheep, swine, or goats for export to a foreign country until the owner or shipper of such animals has a certificate from an inspector stating that the animals are sound and healthy, or unless the Secretary has waived the requirement of such certificate for export to the particular country to which they are to be exported.

§ 566. Suspension of importation

Whenever, in the opinion of the President, it is necessary for the protection of animals, including poultry, in the United States against communicable diseases, he may, by proclamation, suspend the importation of all or any class of animals or poultry for a limited time, and may change, modify, revoke, or renew such proclamation, as the public good may require. During the time of such suspension the importation of any such animals or poultry shall be unlawful.

§ 567. Importation of diseased or exposed animals and poultry prohibited

No person shall import cattle, sheep, other ruminants, swine, and poultry, which are diseased or infected with any disease, or which have been exposed to such infection within sixty days next before their exportation. However, the Secretary of Agriculture may by regulations permit the admission from Mexico into the State of Texas of cattle which have been infested with or exposed to ticks upon being freed therefrom.

§ 568. Importation prohibited except at quarantine stations

No person shall import cattle, sheep, other ruminants, swine, and poultry except at ports designated as quarantine stations by the Secretary of Agriculture with the approval of the Secretary of the Treasury.

If any animals and poultry subject to quarantine are brought into any port of the United States where no quarantine station is established, the collector of such port shall require such animals and poultry to be conveyed to the nearest quarantine station by the vessel on which they are imported or are found, at the expense of the owner.

§ 569. Quarantine of imported animals and poultry

The Secretary of Agriculture may, at the expense of the owner, place and retain in quarantine all cattle, sheep, other ruminants, swine, and poultry imported into the United States, at ports designated by him for such purpose, and under such conditions as he by regulation prescribes, respectively, for the several classes of animals and poultry above described.

For the purpose of such quarantine, the Secretary may purchase, construct, or rent such lands, buildings, animals, tools, fixtures, and appurtenances as may be necessary, and he may appoint such veterinary surgeons, inspectors, officers, and employees as he deems necessary to maintain such quarantine and provide for the execution of the other provisions of sections 565 (c), 566–570, and 573 (e) of this title.

§ 570. Inspection and disposition of imported animals and poultry

(a) The Secretary of Agriculture shall cause careful inspection to be made of all imported cattle, sheep, other ruminants, swine, and poultry, to ascertain whether such animals and poultry are infected with communicable diseases or have been exposed to infection so as to be dangerous to other animals and poultry. Such animals and poultry shall then be either placed in quarantine or dealt with according to the Secretary's regulations.

All food, litter, manure, clothing, utensils, and other appliances that have been so related to such animals and poultry on board ship as to be judged liable to convey infection shall be dealt with according to the Secretary's regulations.

(b) The Secretary of Agriculture may cause to be slaughtered such of the animals and poultry named in subsection (a) of this section as may be, under his regulations, adjudged to be infected with any communicable disease, or to have been exposed to infection so as to be dangerous to other animals and poultry. The value of animals and poultry slaughtered as being exposed to infection but not infected may be ascertained by agreement of the Secretary and the owners thereof if practicable; otherwise, by the appraisal by two persons familiar with the character and value of such property, appointed by the Secretary, whose decision, if they agree, shall be final; otherwise, the Secretary of Agriculture shall decide between them, and his decision shall be final. The amount of the value thus ascertained shall be paid to the owner thereof out of money in the Treasury appropriated for the use of the Bureau of Animal Industry

or for the use of such other bureau or agency, or of any officer, of the Department of Agriculture, to which or to whom the Secretary may delegate the functions heretofore or hereafter exercised by him through the Bureau of Animal Industry; but no payment shall be made for any animals or poultry imported in violation of the provisions of sections 566-570 or 573 (e) of this title.

§ 571. Disease control in District of Columbia

Whenever any communicable disease affecting domestic animals or poultry, is brought into or breaks out in the District of Columbia, the Commissioners of the District of Columbia shall take measures to suppress the disease promptly and to prevent it from spreading. For this purpose the Commissioners may (1) require that any premises or farms where such disease exists, or has existed, be put in quarantine; (2) order that all or any animals and poultry coming into the District be detained at any place for the purpose of inspection and examination; (3) prescribe regulations for and require the destruction of animals or poultry affected with communicable disease, and for the proper disposition of their hides and carcasses; and (4) prescribe regulations for disinfection, and such other regulations as they may deem necessary to prevent infection or contagion being communicated. The Commissioners shall report to the Secretary of Agriculture any actions taken under this section.

§ 572. Inspection by Department as precluding other inspections and fees

Whenever the Secretary of Agriculture, or any inspector or assistant inspector of the Department of Agriculture designated by the Secretary for such purpose, issues a certificate showing that such officer has inspected any cattle or other livestock or poultry which are about to be shipped, driven, or transported from one locality to another as stated in section 558 of this title, and has found them free from any communicable disease, such animals or poultry, so inspected and certified, may be shipped, driven, or transported from such place into and through any State or Territory or the District of Columbia, or they may be exported from the United States, without further inspection or the exaction of fees of any kind, except such as may at any time be ordered or exacted by the Secretary of Agriculture. For the purposes of such inspection, all such animals and poultry shall at all times be under the control and supervision of the Secretary of Agriculture.

§ 573. Penalties

(a) Whoever knowingly violates section 551, 558 or 572 of this title or the orders or regulations made in pursuance thereof shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(b) Whoever violates section 561 of this title shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(c) The Secretary of Agriculture shall give notice of the existence of contagion in any infected locality by notice, in writing, to the proper officials or agents of any railroad, steamboat, or other transportation company doing business in or through such locality, and by publication in such newspapers as he may select. Whoever, being a person operating any such railroad, or master or owner of any boat or vessel, or owner or custodian of or person having control over such cattle or other livestock or poultry within such infected district, knowingly violates section 562 of this title shall be fined not more than \$5,000 or imprisoned not more than one year, or both.

(d) Whoever violates section 565 (d) (e) of this title shall be fined not more than \$10,000 or imprisoned not more than one year, or both.

(e) Whoever knowingly violates section 567 of this title shall be fined not more than \$5,000 or imprisoned not more than three years. Any vessel or vehicle used in such unlawful importation within the knowledge of the master or owner of such vessel or vehicle that such importation is diseased or has been exposed to infection as described in section 567 of this title, shall be forfeited to the United States.

§ 574. Prosecution of violations; venue

The several United States attorneys shall prosecute all violations of this chapter which are brought to their notice by any person making complaint under oath, in the United States district court or Territorial court held within the district in which the violation has been committed.

CHAPTER 57—SERUMS AND ANALOGOUS PRODUCTS

Sec.

611. Preparation and sale of serum, etc.

612. Licensing and inspection of establishments.

613. Regulations for preparation and sale.

614. Importation regulated and prohibited.

615. Permits for and inspection of imports.

616. Revocation or suspension of licenses or permits.

617. Penalties.

§ 611. Preparation and sale of serum, etc.

No person shall prepare, sell, barter, or exchange in the District of Columbia, in the Territories, or in any place under the jurisdiction

of the United States, or ship or deliver for shipment from one State or Territory or the District of Columbia to any other State or Territory or the District of Columbia—

(1) any worthless, contaminated, dangerous, or harmful virus, serum, toxin, or analogous product intended for use in the treatment of domestic animals; or

(2) any virus, serum, toxin, or analogous product manufactured within the United States and intended for use in the treatment of domestic animals, unless and until such product has been prepared, under and in compliance with regulations prescribed by the Secretary of Agriculture, at an establishment holding an unsuspended and unrevoked license issued by the Secretary under this chapter.

§ 612. Licensing and inspection of establishments

(a) The Secretary of Agriculture may issue, suspend, and revoke licenses for the maintenance of establishments for the preparation of viruses, serums, toxins, and analogous products, for use in the treatment of domestic animals, intended for sale, barter, exchange, or shipment as specified in section 611 of this title.

(b) All licenses issued to establishments under this chapter shall be issued on condition that the licensee shall permit the inspection of such establishments and of such products and their preparation. Any officer, agent, or employee of the Department of Agriculture duly authorized by the Secretary for the purpose may enter and inspect any establishment licensed under this chapter at any hour of the day or night.

§ 613. Regulations for preparation and sale

The Secretary of Agriculture may make and promulgate from time to time such rules and regulations as may be necessary to prevent the preparation, sale, barter, exchange, or shipment as specified in section 611 of this title of any worthless, contaminated, dangerous, or harmful virus, serum, toxin, or analogous product for use in the treatment of domestic animals.

§ 614. Importation regulated and prohibited

No person shall import into the United States, without a permit from the Secretary of Agriculture, any virus, serum, toxin, or analogous product for use in the treatment of domestic animals, and no person shall import into the United States any worthless, contaminated, dangerous, or harmful virus, serum, toxin, or analogous product for use in the treatment of domestic animals.

§ 615. Permits for and inspection of imports

(a) The Secretary of Agriculture may issue permits for the importation into the United States of viruses, serums, toxins, and analogous products, for use in the treatment of domestic animals, which are not worthless, contaminated, dangerous, or harmful.

(b) The Secretary may cause to be examined and inspected all viruses, serums, toxins, and analogous products, for use in the treatment of domestic animals, which are being imported or offered for importation into the United States, to determine whether such products are worthless, contaminated, dangerous, or harmful. If it appears that any such product is worthless, contaminated, dangerous, or harmful, such product shall be denied entry and shall be destroyed or returned at the expense of the owner or importer.

§ 616. Revocation or suspension of licenses or permits

The Secretary of Agriculture may suspend or revoke any license or permit issued under this chapter, after opportunity for hearing has been granted the licensee or importer, when the Secretary is satisfied that such license or permit is being used to facilitate or effect the preparation, sale, barter, exchange, or shipment as specified in section 611 of this title, or the importation into the United States, of any worthless, contaminated, dangerous, or harmful virus, serum, toxin, or analogous product for use in the treatment of domestic animals.

§ 617. Penalties

Whoever violates any of the provisions of this chapter shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

PART III.—NARCOTICS

CHAPTER	Sec.
91. Administration	711
93. NARCOTICS IMPORT AND EXPORT.....	761
95. DOMESTIC OPIUM POPPY PRODUCTION CONTROL.....	811

CHAPTER 91—ADMINISTRATION

Sec.
711. Administration of Part III; delegation of functions.
712. Departmental cooperation in discharge of international obligations.
713. Cooperation with States in suppression of abuse.
714. Payments for information.

§ 711. Administration of Part III; delegation of functions

Except as otherwise provided by law, the administration and enforcement of this part are vested in the Secretary of the Treasury. Such Secretary's functions under this part shall be performed by him or, subject to his direction and control, by such officers, agencies and bureaus of the Department of the Treasury as he designates.

§ 712. Departmental cooperation in discharge of international obligations

The Secretary of the Treasury shall cooperate with the Secretary of State in the discharge of the international obligations of the United States concerning the traffic in narcotic drugs.

§ 713. Cooperation with States in suppression of abuse

(a) The Secretary of the Treasury shall cooperate with the several States in the suppression of the abuse of narcotic drugs in their respective jurisdictions, and to that end he may:

(1) Cooperate in the drafting of such legislation as may be needed to effect the end named; and

(2) Arrange for the exchange of information concerning the use and abuse of narcotic drugs in said States and for cooperation in the institution and prosecution of cases in the courts of the United States and before the licensing boards and courts of the several States.

(b) The Secretary of the Treasury may prescribe such regulations as may be necessary to carry out the purposes of this section.

§ 714. Payments for information concerning violations of laws

The Secretary of the Treasury may pay to any person, from funds now or hereafter appropriated for the enforcement of the narcotic laws of the United States, for information concerning a violation of any narcotic law of the United States, resulting in a seizure of contraband narcotics, such sum or sums of money as he may deem appropriate, without reference to any moiety or rewards to which such person may otherwise be entitled by law. All payments under authority of this section to any informer in any foreign country shall be made only through an accredited consul or vice consul of the United States stationed in such country, and every such payment shall be supported by a voucher with an accompanying certificate of such consul or vice consul that the payment of the amount stated on the voucher has been made to the informer named, and at the place and time specified on such voucher.

CHAPTER 93—NARCOTICS IMPORT AND EXPORT

Sec.

761. Definitions.

762. Rules and regulations.

763. Importation; exceptions and restrictions; forfeitures.

764. Seizure of drugs found on vessel or landed without permit; penalty and withholding of clearance; mitigation and remission.

765. Import for purpose of transportation to another country; transfer between vessels.

766. Penalty for unlawful import, receipt, transportation or sale; subsequent offenses; procedure; evidence; liability of masters and persons in charge.

767. Presumption and burden of proof as to importation of smoking opium.

Sec.

768. Exportation; exception; laws of foreign governments.

769. Penalty for unlawful export.

770. Penalty for having in possession or control on board United States vessel.

771. Penalty for possession, receipt, or concealment of smoking opium; evidence; liability of masters and persons in charge.

772. Share of fine to informer.

§ 761. Definitions

As used in this chapter, unless the context requires a different meaning—

1. “narcotic drug” shall have the meaning ascribed to the term “narcotic drugs” by section 3228 (g) of the Internal Revenue Code; the term “isonipecaine” shall have the meaning ascribed to that term by section 3228 (e) of such Code; and the term “opiate” shall have the meaning ascribed to that term by section 3228 (f) of such Code;

2. “United States”, when used in a geographical sense, includes the several States and Territories, and the District of Columbia;

3. “Secretary” means the Secretary of the Treasury;

4. “person” means an individual, partnership, corporation, or association.

§ 762. Rules and regulations

The Secretary shall prescribe and publish all proper rules and regulations to carry into effect the authority vested in him by this chapter.

§ 763. Importation; exceptions and restrictions; forfeitures

(a) No narcotic drug may be imported or brought into the United States or any territory under its control or jurisdiction, except that, under such regulations as the Secretary shall prescribe—

(1) Such amounts of crude opium and coca leaves as the Secretary finds to be necessary to provide for medical and scientific uses may be so imported or brought in; but no crude opium may be imported or brought in for the purpose of manufacturing heroin, and the Secretary may limit further or prohibit entirely the importation or bringing in of crude opium, to the extent that he finds that the medical and scientific needs of the United States for opium or opium products are being, or can be, supplied by opium poppies produced in accordance with chapter 95 of this title; and

(2) Amounts of coca leaves in addition to the amount permitted under paragraph (1) of this subsection may be imported or brought in; but after the entry of such additional amounts into the United States or any territory under its control or jurisdiction, all cocaine, ecgonine, and all salts, derivatives, and preparations from which

cocaine or ecgonine may be synthesized or made, contained therein, shall be destroyed under the supervision of the Secretary or his authorized representative.

(b) All narcotic drugs imported under subsection (a) of this section shall be subject to the duties which are now or may hereafter be imposed upon such drugs when imported.

(c) Any narcotic drug imported or brought into the United States or any territory under its control or jurisdiction, contrary to law, shall—

(1) If smoking opium or opium prepared for smoking, be seized and summarily forfeited to the United States Government without the necessity of instituting forfeiture proceedings of any character; or

(2) If any other narcotic drug be seized and forfeited to the United States Government, without regard to its value, in the manner provided by sections 1607 and 1608 of Title 19, or the provisions of law hereafter enacted which are amendatory of, or in substitution for, such sections.

(d) Any narcotic drug which is forfeited in a proceeding for condemnation or not claimed under sections 1607 and 1608 of Title 19, or which is summarily forfeited as provided in subsection (c) of this section, shall be placed in the custody of the Secretary and in his discretion be destroyed or delivered to some agency of the United States Government for use for medical or scientific purposes.

§ 764. Seizure of drugs found on vessel or landed without permit; penalty and withholding of clearance; mitigation and remission

(a) Any narcotic drug that is found upon a vessel arriving at a port of the United States or territory under its control or jurisdiction and is not shown upon the vessel's manifest, or that is landed from any such vessel without a permit first obtained from the collector of customs for that purpose, shall be seized, forfeited, and disposed of in the manner provided in subsections (c) and (d) of section 763 of this title, and the master of the vessel shall be liable (1) if the narcotic drug is smoking opium, to a penalty of \$25 an ounce, and (2) if any other narcotic drug, to a penalty equal to the value of the narcotic drug.

(b) Any penalty imposed under subsection (a) of this section shall constitute a lien upon the vessel which may be enforced by proceedings by libel in rem. Clearance of the vessel from a port of the United States may be withheld until the penalty is paid, or until there is deposited with the collector of customs at the port a bond in a penal

sum double the amount of the penalty, with sureties approved by the collector, and conditioned on the payment of the penalty (or so much thereof as is not remitted by the Secretary) and of all costs and other expenses to the Government in proceedings for the recovery of the penalty, in case the master's application for remission of the penalty is denied in whole or in part by the Secretary.

(c) The provisions of law for the mitigation and remission of penalties and forfeitures incurred for violations of the customs laws, shall apply to penalties incurred for a violation of the provisions of this section.

§ 765. Import for purpose of transportation to another country; transfer between vessels

No smoking opium or opium prepared for smoking shall be admitted into the United States or into any territory under its control or jurisdiction for transportation to another country, or be transferred or transshipped from one vessel to another vessel within any waters of the United States for immediate exportation or for any other purpose; and except with the approval of the Secretary, no other narcotic drug may be so admitted, transferred, or transshipped.

§ 766. Penalty for unlawful import, receipt, transportation or sale; subsequent offenses; procedure; evidence; liability of masters and persons in charge

(a) Whoever fraudulently or knowingly imports or brings any narcotic drug into the United States or any territory under its control or jurisdiction, contrary to law, or receives, conceals, buys, sells, or in any manner facilitates the transportation, concealment, or sale of any such narcotic drug after being imported or brought in, knowing the same to have been imported contrary to law, or conspires to commit any of such acts in violation of the laws of the United States, shall be fined not more than \$2,000 and imprisoned not less than two or more than five years. For a second offense, the offender shall be fined not more than \$2,000 and imprisoned not less than five or more than ten years. For a third or subsequent offense, the offender shall be fined not more than \$2,000 and imprisoned not less than ten or more than twenty years. Upon conviction for a second or subsequent offense, the imposition or execution of sentence shall not be suspended and probation shall not be granted. For the purpose of this subsection, an offender shall be considered a second or subsequent offender, as the case may be, if he previously has been convicted of any offense the penalty for which is provided in this subsection or in section 2557

(b) (1) of the Internal Revenue Code, or if he previously has been convicted of any offense the penalty for which was provided in section 9, chapter 1, of the Act of December 17, 1914 (38 Stat. 789), as amended; section 1, chapter 202 of the Act of May 26, 1922 (42 Stat. 596), as amended; section 12, chapter 553, of the Act of August 2, 1937 (50 Stat. 556), as amended; or section 2557 (b) (1) or 2596 of the Internal Revenue Code, as amended. After conviction, but prior to pronouncement of sentence, the court shall be advised by the United States attorney whether the conviction is the offender's first or a subsequent offense. If it is not a first offense, the United States attorney shall file an information setting forth the prior convictions. The offender shall have the opportunity in open court to affirm or deny that he is identical with the person previously convicted. If he denies the identity, sentence shall be postponed for such time as to permit a trial before a jury on the sole issue of the offender's identity with the person previously convicted. If the offender is found by the jury to be the person previously convicted, or if he acknowledges that he is such person, he shall be sentenced as prescribed in this subsection.

Whenever on trial for a violation of this subsection the defendant is shown to have or to have had possession of the narcotic drug, such possession shall be deemed sufficient evidence to authorize conviction unless the defendant explains the possession to the satisfaction of the jury.

(b) No master of any vessel or other water craft, or person in charge of a railroad car or other vehicle, shall be liable under subsection (a) of this section if he satisfies the jury that he had no knowledge of and used due diligence to prevent the presence of the narcotic drug in or on such vessel, water craft, railroad car, or other vehicle; but the narcotic drug shall be seized, forfeited, and disposed of as provided in subsections (c) and (d) of section 763 of this title.

§ 767. Presumption and burden of proof as to importation of smoking opium

All smoking opium or opium prepared for smoking found within the United States shall be presumed to have been imported contrary to law, and the burden of proof shall be on the claimant or the accused to rebut such presumption.

§ 768. Exportation; exceptions; laws of foreign governments

(a) No person subject to the jurisdiction of the United States Government shall export or cause to be exported from the United States, or from territory under its control or jurisdiction, any narcotic drug to any other country except to a country which has ratified and become

a party to the convention and final protocol between the United States Government and other powers for the suppression of the abuses of opium and other drugs, commonly known as the International Opium Convention of 1912, and then only if—

(1) such country has instituted and maintains, in conformity with that convention, a system, which the Secretary deems adequate, of permits or licenses for the control of imports of such narcotic drugs;

(2) the narcotic drug is consigned to an authorized permittee; and

(3) there is furnished to the Secretary proof deemed adequate by him that the narcotic drug is to be applied exclusively to medical and scientific uses within the country to which exported, that it will not be reexported from such country, and that there is an actual shortage of and a demand for the narcotic drug for medical and scientific uses within such country.

(b) The exceptions contained in subsection (a) of this section shall not apply to smoking opium or opium prepared for smoking, the exportation of which is absolutely prohibited.

(c) The Secretary of State shall request all foreign governments to communicate through the diplomatic channels copies of the laws and regulations promulgated in their respective countries which prohibit or regulate the importation and shipment in transit of any narcotic drug and, when received, shall advise the Secretary thereof.

§ 769. Penalty for unlawful export

Any person who exports, or conspires to export, any narcotic drugs in violation of section 768 of this title shall be fined not more than \$5,000 or imprisoned not more than two years, or both.

§ 770. Penalty for having in possession or control on board United States vessel

(a) Any person who brings on board, or has in his possession or control on board, any vessel of the United States, while engaged on a foreign voyage, any narcotic drug not constituting a part of the cargo entered in the manifest or part of the ship stores, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

(b) As used in subsection (a) of this section, “narcotic drug” means any narcotic drug defined by section 761 of this title, or any substance in respect of which a tax is imposed pursuant to chapter 23 of Title 26, or any regulations thereunder.

§ 771. Penalty for possession, receipt, or concealment of smoking opium; evidence; liability of masters and persons in charge

(a) Any person, subject to the jurisdiction of the United States, who, either as principal or as accessory, receives or has in his possession, or conceals on board of or transports on any foreign or domestic vessel or other water craft or railroad car or other vehicle destined to or bound from the United States or any Possession thereof, any smoking opium or opium prepared for smoking, or who, having knowledge of the presence in or on any such vessel, water craft, or vehicle of such article, does not report the same to the principal officer thereof, shall be punished as provided in section 766 of this title. Whenever on trial for violation of this section the defendant is shown to have or to have had possession of such opium, such possession shall be deemed sufficient evidence to authorize conviction, unless the defendant shall explain the possession to the satisfaction of the jury.

(b) No master of a vessel or other water craft or person in charge of a railroad car or other vehicle shall be liable under this section if he satisfies the jury that he had no knowledge and used due diligence to prevent the presence of such article in or on such vessel, water craft, car, or other vehicle; but any such article shall be forfeited and destroyed.

§ 772. Share of fine to informer

One-half of any fine recovered from any person or persons convicted of an offense under this chapter may be paid to the person or persons giving information leading to such recovery, and one-half of any bail forfeited and collected in any proceedings brought under this chapter may be paid to the person or persons giving the information which led to the institution of such proceedings, if so directed by the court exercising jurisdiction in the case. No payment for giving information shall be made to any officer or employee of the United States.

CHAPTER 95—DOMESTIC OPIUM POPPY PRODUCTION CONTROL

Sec.

811. Declaration of policy; assistance from Federal agencies.

812. Definitions.

813. Rules and regulations.

814. Licenses; qualifications; limitations; revocation and renewal.

815. Distribution by Federal Government; personnel of Treasury Department excepted from prohibitions.

816. Production, purchase, manufacture, sale or transportation by unlicensed persons.

817. Seizure and forfeiture of opium poppies illegally possessed; disposition.

818. Penalties.

819. Pleading, presumptions, and burden of proof.

820. Application to, and of, other laws.

821. Territorial application.

§ 811. Declaration of policy; assistance from Federal agencies

(a) It is the purpose of this chapter to—

(1) discharge more effectively the obligations of the United States under the International Opium Convention of 1912, and the Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs of 1931;

(2) promote the public health and the general welfare;

(3) regulate interstate and foreign commerce in opium poppies; and

(4) safeguard the revenue derived from taxation of opium and opium products.

(b) Other departments, bureaus, and independent establishments of the Government, when requested by the Secretary of the Treasury, shall furnish such assistance, including technical advice, as will aid in carrying out the purposes of this chapter.

§ 812. Definitions

As used in this chapter—

1. “produce” or “production” includes the planting, cultivation, growth, harvesting, and any other activity which facilitates the growth of the opium poppy;

2. “opium poppy” includes the plant *Papaver somniferum*, any other plant which is the source of opium or opium products, and any part of any such plant;

3. “opium” includes the inspissated juice of the opium poppy, in crude or refined form;

4. “opium products” includes opium and all substances obtainable from opium or the opium poppy, except the seed thereof;

5. “Secretary” means the Secretary of the Treasury;

6. “person” means an individual, company, partnership, corporation, or association.

§ 813. Rules and regulations

The Secretary may prescribe and publish all necessary rules and regulations for carrying out the provisions of this chapter.

§ 814. Licenses; qualifications; limitations; revocation and renewal

(a) Any person who desires to procure a license to produce the opium poppy, or to manufacture opium or opium products, shall make application therefor in such manner and form as the Secretary shall by rules and regulations prescribe.

(b) A license to produce the opium poppy shall be issued only to a person who, in the opinion of the Secretary, is determined to be a person—

- (1) of good moral character;
- (2) of suitable financial standing and farming experience;
- (3) who owns or controls suitable farm land to be used as a production area, in such locality, as will, in the judgment of the Secretary, render reasonably probable the efficient and diligent performance of the operations of producing the opium poppy in appropriate number and quality; and
- (4) who complies with such additional requirements as the Secretary shall deem and prescribe as reasonably necessary for the controlled production and distribution of the opium poppy.

Each such license shall be nontransferable and shall be valid only to the extent of the production area and maximum weight of opium poppy yield specified in the license, shall state the locality of the production area, and shall be effective for a period of one year from the date of issue and may be renewed, in the discretion of the Secretary, for a like period.

(c) A license to manufacture opium or opium products shall be issued only to a person who, in the opinion of the Secretary, is determined to be a person—

- (1) of good moral character;
- (2) who possesses a method and facilities, deemed satisfactory to the Secretary, for the efficient and economical extraction of opium or opium products;
- (3) who has such experience in manufacturing and marketing other medicinal drugs as to render reasonably probable the orderly and lawful distribution of opium or opium products of suitable quality to supply medical and scientific needs; and
- (4) who complies with such additional requirements as the Secretary shall deem and prescribe as reasonably necessary for the controlled production, manufacture, and distribution of the opium poppy, opium, or opium products.

Such license shall be nontransferable, shall state the maximum quantity of opium poppies purchasable or obtainable thereunder, and shall be effective for a period of one year from the date of issue and may be renewed, in the discretion of the Secretary, for a like period.

(d) All licenses issued under this section shall be limited to such number, localities, and areas as the Secretary shall determine to be appropriate to supply the medical and scientific needs of the United

States for opium or opium products, with due regard to provision for reasonable reserves. Nothing contained in this section shall be construed as requiring the Secretary to issue or renew any license or licenses under the provisions hereof.

(e) The Secretary may revoke or refuse to renew any license issued under this section, if, after due notice and opportunity for hearing, he finds such action to be in the public interest, or finds that the licensee has failed to maintain the requisite qualifications.

§ 815. Distribution by Federal Government; personnel of Treasury Department excepted from prohibitions

(a) The Secretary, whenever in his opinion the medical and scientific needs of the Nation will not be met by importation or licensed production, shall provide for the acquisition of opium poppy seed, for the production of the opium poppy, for the manufacture of opium or opium products, and for the use, sale, giving away, or other proper distribution of opium poppy seed, opium poppies, opium, or opium products by the United States Government either directly or through and with the approval of the head of any agency of the Government, including any Government-owned or controlled corporation.

(b) None of the prohibitions contained in this chapter shall apply to any officer or employee of the United States Treasury Department, who in the performance of his official duties and within the scope of his authority engages in any of the businesses or activities herein described, nor to any other officer or employee of the United States Government, who in the performance of his official duties, within the scope of his authority and with the approval of the Secretary, engages in any of the businesses or activities herein described.

§ 816. Production, purchase, manufacture, sale or transportation by unlicensed persons

(a) No person who is not the holder of a proper license authorizing him to produce the opium poppy, duly issued to him by the Secretary, shall produce or attempt to produce the opium poppy, or permit the production of the opium poppy in or upon any place owned, occupied, used, or controlled by him.

(b) Except as otherwise provided in subsection (e) of this section, no person shall—

(1) purchase or in any other manner obtain the opium poppy, unless he is the holder of a proper license to produce the opium poppy or to manufacture opium or opium products, duly issued to him by the Secretary; or

(2) sell, transfer, convey any interest in, or give away the opium poppy to any person not so licensed.

(c) No person who is not the holder of a proper license authorizing him to manufacture opium or opium products, duly issued to him by the Secretary, shall manufacture, compound, or extract opium or opium products from the opium poppy.

(d) No person who is not the holder of a proper license authorizing him to produce the opium poppy or to manufacture opium or opium products, duly issued to him by the Secretary, shall send, ship, carry, transport, or deliver any opium poppies within any State, Territory, the District of Columbia, the Canal Zone, or insular possession of the United States, or from any State, Territory, the District of Columbia, the Canal Zone, or insular possession of the United States, into any other State, Territory, the District of Columbia, the Canal Zone, or insular possession of the United States. Nothing contained in this subsection shall apply to any common carrier engaged in transporting opium poppies pursuant to an agreement with a person duly licensed under section 814 of this title as a producer of the opium poppy, or as a manufacturer of opium or opium products, or to any employee of any person so licensed while acting within the scope of his employment.

(e) No person shall sell, transfer, convey any interest in, or give away, except to a person duly licensed under section 814 of this title, opium poppy seed for the purpose of opium poppy production, nor shall any unlicensed person purchase or otherwise obtain such seed for such purpose; but the seed obtained from opium poppies produced by licensed producers may be sold or transferred by such producers to unlicensed persons, and may thereafter be resold or transferred, for ultimate consumption as a spice seed or for the manufacture of oil.

§ 817. Seizure and forfeiture of opium poppies illegally possessed; disposition

(a) Any opium poppies produced or otherwise obtained in violation of any of the provisions of this chapter shall be seized by, and forfeited to, the United States.

(b) The failure, upon demand by the Secretary, or his duly authorized agent, of the person in occupancy or control of land or premises upon which opium poppies are being produced or stored to produce an appropriate license, or proof that he is the holder thereof, shall constitute authority for the seizure and forfeiture of such opium poppies.

(c) The Secretary, or his duly authorized agent, shall have authority to enter upon any land (but not a dwelling house, unless pursuant to a search warrant issued according to law) where opium poppies are being produced or stored, for the purposes of enforcing the provisions of this chapter.

(d) Any opium poppies, the owner or owners of which are unknown, seized by or coming into the possession of the United States in the enforcement of this chapter shall be forfeited to the United States.

(e) The Secretary shall destroy any opium poppies seized by, and forfeited to, the United States under this section, or deliver them for medical or scientific purposes to any department, bureau, or other agency of the United States Government, upon proper application therefor under such regulations as he may prescribe.

§ 818. Penalties

(a) Any person who violates any provision of this chapter shall be fined not more than \$2,000 or imprisoned not more than five years, or both.

(b) Any person who willfully makes, aids, or assists in the making of, or procures, counsels, or advises in the preparation or presentation of, a false or fraudulent statement in any application for a license under the provisions of section 814 of this title shall (whether or not such false or fraudulent statement is made by or with the knowledge or consent of the person authorized to present the application) be fined not more than \$2,000 or imprisoned not more than one year, or both.

§ 819. Pleading, presumptions, and burden of proof

It shall not be necessary to negative any exemptions set forth in this chapter in any complaint, information, indictment, or other writ or proceeding laid or brought under this chapter and the burden of proof of any such exemption shall be upon the defendant. In the absence of the production of an appropriate license by the defendant, he shall

be presumed not to have been duly licensed in accordance with section 814 of this title and the burden of proof shall be on the defendant to rebut such presumption.

§ 820. Application to, and of, other laws

Nothing in this chapter shall be construed to repeal any provisions of the Internal Revenue Code, but nothing in that Code shall apply to the production, sale, or transfer of opium poppies, when such opium poppies are lawfully produced, sold, or transferred by persons duly and properly licensed under section 814 of this title in conformity with the regulations issued pursuant to such section.

§ 821. Territorial application

The provisions of this chapter shall apply to the several States, the District of Columbia, the Territory of Alaska, the Territory of Hawaii, the Canal Zone, Puerto Rico, and the other insular possessions of the United States.

SEC. 2. Section 1 of the Act approved May 29, 1884 (ch. 60, 23 Stat. 31; 7 U. S. C., sec. 391), as amended, is amended to read as follows:

“SEC. 1. There shall be in the Department of Agriculture a Bureau of Animal Industry. The Secretary of Agriculture is authorized to appoint a chief thereof, who shall be a competent veterinary surgeon. The functions of the Bureau of Animal Industry shall be vested in the Secretary of Agriculture or, subject to his direction and control, in such officers and agencies of the Department of Agriculture as he may designate. Such functions shall include the duty to investigate and report upon the condition of the domestic animals and poultry of the United States, their protection and use, and also to inquire into and report the causes of communicable diseases among them, and the means for the prevention and cure of the same, and to collect such information on these subjects as shall be valuable to the agricultural and commercial interests of the country.”.

SEC. 3. The first paragraph of section 1 of the Act approved March 28, 1928 (chapter 266, 45 Stat. 374; 31 U. S. C., sec. 529a), as amended, is amended (1) by striking out “Division of Disbursement”, as now appearing in such paragraph, and, in lieu thereof, inserting “Fiscal Service”; and (2) by striking out, after the first semicolon, “the Act entitled ‘An Act to amend an Act entitled “An Act to prohibit the importation and use of opium for other than medicinal purposes”, approved February 9, 1909’, as amended, known as the ‘Narcotic Drugs Import and Export Act’”, and inserting in lieu thereof “sections 761–769, 771 and 772 of Title 21”.

SEC. 4. (a) Subsection (a) of section 302 of the Act approved July 1, 1944 (chapter 373, Title III, 58 Stat. 692; 42 U. S. C., sec. 242) is amended by striking out the reference “the Narcotic Drugs Import and Export Act, as amended”, appearing at the end of such subsection, and inserting in lieu thereof “sections 761–769, 771 and 772 of Title 21”.

(b) Subsection (d) of section 7 of the Act approved August 9, 1939 (chapter 618, 53 Stat. 1293; 49 U. S. C., sec. 787 (d)), as amended, is amended by striking out the reference “the Narcotic Drugs Import and Export Act” appearing in such subsection, and in lieu thereof inserting “section 761 of Title 21”.

SEC. 5. The opening clause of subsection (f) of section 15 of the Federal Trade Commission Act (15 U. S. C., sec. 55 (f)) as amended, which subsection was added to such section 15 by section 4 (b) of the Act approved March 16, 1950 (chapter 61, 64 Stat. 21), is amended by striking out "and section 407 of the Federal Food, Drug, and Cosmetic Act, as amended".

SEC. 6. If any part of Title 21, United States Code, as set out in section 1 of this Act, shall be held invalid, the remainder of such title shall not be affected thereby.

SEC. 7. No inference of a legislative construction is to be drawn by reason of the chapter in Title 21, United States Code, as set out in section 1 of this Act, in which any section is placed, nor by reason of the catchlines used in such title.

SEC. 8. All orders, rules, and regulations in effect on the effective date of this Act, which were adopted under the authority of the Acts of Congress from which Title 21, United States Code, as set out in section 1 of this Act, is derived, shall continue in effect until modified, amended, superseded, or repealed under the authority of such title.

SEC. 9. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of Title 21, United States Code, as set out in section 1 of this Act.

SEC. 10. The provisions of this Act shall take effect thirty days after the adjournment of the Second Session of the Eighty-third Congress.

SEC. 11. The sections or parts thereof of the Statutes at Large enumerated in the following schedule are hereby repealed. Any rights or liabilities now existing under such sections or parts thereof shall not be affected by this repeal.

Statutes at Large						U. S. Code	
Date	Chapter	Title	Section	Volume	Page	Title	Section
1884—May 29	60	-----	2, 3, 4, 5, 6, 7, 8, 9	23	31-33	21	112, 113, 114, 117-120, 130
Do	60	-----	10	23	33	{ 7	391 note
1887—Feb. 23	210	-----	1, 2, 3	24	409	21	112 note
1890—Aug. 30	839	-----	1, 2, 3	26	414, 415	21	191-193
Do	839	-----	4, 6, 7, 8, 9, 10	26	415-417	21	1 note, 71 note
1897—Mar. 2	358	-----	1, 2, 3, 4, 5, 6, 7, 8, 9, 10	29	604-607	21	18, 101-105
1902—May 9	784	-----	1	32	193	21	25
July 1	1357	-----	1, 2	32	632	21	16, 17
1903—Feb. 2	349	-----	1, 2, 3	32	791, 792	21	111, 112, 113, 120-122
1905—Mar. 3	1496	-----	1, 2, 3, 4, 6	33	1264, 1265	21	123-127
1906—June 30	3913 (part)	-----	-----	34	¹ 679	21	95
1907—Mar. 4	2907 (part)	-----	-----	34	² 1260-1265	21	71-92
1908—May 16	170	-----	-----	35	163	21	41
May 23	192 (part)	-----	-----	35	³ 254	21	94a
1909—Feb. 9	⁴ 100	-----	1, 2, 3, 4, 5, 6, 7, 8, 9	35	614	21	171-173, 174, 176-184, 185
1910—May 26	256 (part)	-----	-----	36	⁶ 440	21	131
1913—Mar. 4	145 (part)	-----	-----	37	⁶ 832, 833	21	151-158
1914—June 30	131 (part)	-----	-----	38	⁷ 419	21	128
Do	131 (part)	-----	-----	38	⁶ 420	21	94
1915—Mar. 3	74	-----	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13.	38	817-822	21	201-215
Mar. 4	144 (part)	-----	-----	38	⁹ 1102	21	24
1917—Aug. 10	52	-----	9	40	275	21	106, 107
1918—Nov. 21	212	-----	3	40	1048, 1049	21	106, 107
1919—July 24	26 (part)	-----	-----	41	¹⁰ 241	21	96
Do	26 (part)	-----	-----	41	¹¹ 271	21	321h
1920—May 31	217 (part)	-----	-----	41	¹² 699	21	116
Do	217 (part)	-----	-----	41	¹³ 712, 713	21	41-44, 46-50
1923—Mar. 4	262	-----	1, 2, 3	42	1486, 1487	21	61-63
Do	262	-----	¹⁴ 4	-----	-----	21	64
Do	268	-----	-----	42	1500	21	321a
1926—June 28	700	-----	1, 2	44	774, 775	21	104, 115, 115 note
1927—Jan. 18	39 (part)	-----	-----	44	¹¹ 984	21	26
Feb. 15	155	-----	1, 2, 3, 4, 5, 6, 7, 8, 9	44	1101-1103	21	141-149
Mar. 4	489	-----	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12.	44	1406-1410	15	401-409, 409 note, 410, 411
1928—Feb. 7	30	-----	-----	45	59	{ 7	¹⁶ 391
May 16	572 (part)	-----	-----	45	¹⁷ 548	21	111-115, 117- 128, 128, 130
1929—Feb. 16	22 (part)	-----	-----	45	¹⁸ 1198	21	26
1930—June 14	488	-----	6, 7, 8	46	587	21	28
July 3	829	-----	-----	46	850	21	173a, 197, 198
1931—Feb. 28	348	-----	-----	46	1460	21	199
1934—June 22	712	-----	-----	48	1204	21	104
June 26	756	-----	¹⁹ 2	48	1225	21	372a
1935—Aug. 27	739	-----	-----	49	871	21	95
							372a

¹ Only the second full paragraph on this page, of which the first sentence was classified to the United States Code, 1946 ed., as section 95 of title 21 thereof, and the remainder was not classified to such Code.

² Commencing with the paragraph headed "For meat inspection," on page 1260, and continuing on to the bottom of such page, inclusive; all that appears on pages 1261, 1262, 1263 and 1264, including the paragraph which commences on page 1264 and ends on page 1265; and the first full paragraph on page 1265.

³ Only the proviso which commences near the bottom of this page, and ends on page 255 with the word "certified".

⁴ As amended by Acts Jan. 17, 1914, ch. 9, 38 Stat. 275-277; May 26, 1922, ch. 202, §§ 1-4, 42 Stat. 596-598; June 7, 1924, ch. 352, 43 Stat. 657; July 1, 1944, ch. 377 § 8, 58 Stat. 721; Mar. 8, 1946, ch. 81, § 7, 60 Stat. 39; Nov. 2, 1951, ch. 666, §§ 1, 5 (1), 65 Stat. 767, 769; June 27, 1952, ch. 477, § 403 (a) (10), 66 Stat. 279.

⁵ Only the third paragraph under the heading "Miscellaneous" appearing on this page.

⁶ All of the paragraph commencing on page 832, "That from and after July first", and ending on page 833, except the final sentence of such paragraph, commencing, "That there is hereby appropriated".

⁷ Only the first proviso appearing on this page.

⁸ Only the proviso in the paragraph commencing, "Meat inspection, Bureau of Animal Industry", and appearing on this page.

⁹ Only the proviso appearing on this page.

¹⁰ All of the paragraph beginning "Meat inspection, Bureau of Animal Industry", appearing on this page except the first sentence thereof.

¹¹ All of the fourth full paragraph appearing on this page.

¹² Only the last two provisos in the paragraph which begins on page 698 and ends on page 699, said two provisos appearing on page 699.

¹³ All of the paragraph which begins on page 712 and ends on page 713, except the final sentence of such paragraph.

¹⁴ As added by Act Aug. 27, 1935, ch. 743, 49 Stat. 885.

¹⁵ Only the proviso in the paragraph headed "Meat inspection", appearing on this page.

¹⁶ The amendments made by the Act of Feb. 7, 1923, ch. 30, to section 1 of Act May 29, 1884, ch. 60 (23 Stat. 31; 7 U. S. C., sec. 391), are also repealed, but such repeal shall not be construed as repealing such section 1 of the Act of 1884 (7 U. S. C., sec. 391) which, as amended by another section of this Act, shall remain in full force and effect.

¹⁷ The first proviso appearing on this page.

¹⁸ The proviso in the paragraph headed "Meat inspection," appearing on this page.

¹⁹ Only that part of this section which amends that part of Act June 30, 1906, ch. 3913, 34 Stat. 679 relating to a permanent appropriation for the inspection of cattle, sheep, swine, and goats and the meat and meat food products thereof, and expenses incidental to such inspection, including the proviso in subsection (a), and item (3) of subsection (b), of such section 2.

Statute at Large						U. S. Code	
Date	Chapter	Title	Section	Volume	Page	Title	Section
1938—June 25-----	675	-----	Ail	52	1040-1059	21	301, 321, 321a, 321b, 331-337, 341-346, 351-357, 361-364, 371, 372, 372a, 373-376, 381, 391, 392, and notes thereunder, and notes preceding 61, 141
June 29-----	810	-----		52	1235	21	91
1939—May 2-----	107	I	1 (part)	53	²⁰ 631	21	376 note
June 23-----	242	-----	1, 2, 3	53	853, 854	21	342 note, 343 note, 351 note, 352, 352 note, 361 note, 362 note
1940—June 27-----	437	I	101 (part)	54	²¹ 632	21	46a
1941—July 1-----	269	II (part)	-----	55	²² 478	21	46a
July 11-----	289	-----	1, 2	55	584	21	184a, 184a note
Dec. 22-----	613	-----	1, 2, 3, 4	55	851, 852	21	331, 352, 356, 356 note
1942--Dec. 11-----	720	-----	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17	56	1045-1049	21	188, 188 note, 188a-188n
1943--July 12-----	221	II	1 (part)	57	²³ 500	21	372a
1944--Mar. 2-----	77	-----	-----	58	108	21	321c
1944--Sept. 21-----	412	I	101 (a)	58	734	21	114a
1945--July 6-----	281	-----	1, 2, 3	59	463, 464	21	331, 352, 357
1947--Feb. 28-----	8	-----	1, 2, 3, 4	61	7, 8	21	114b, 114b note, 114c, 114d
Mar. 10-----	16	-----	1, 2, 3	61	11, 12	21	331, 352, 357
July 30-----	356	I	1 (part)	61	²⁴ 531, 532	21	97, 97a, 97b, 97c, 97d
1948--Apr. 24-----	229	-----	-----	62	198	21	113a
June 5-----	423	-----	-----	62	344	21	98
June 16-----	477	-----	1, 2	62	458	21	114e, 114f
June 24-----	613	-----	1, 2	62	582	21	331, 334
June 25-----	646	-----	5	62	986	21	193
1949--June 29-----	280	I	101 (part)	63	²⁵ 331	-----	-----
July 13-----	305	-----	1, 2	63	409, 410	21	352, 357
Oct. 18-----	696	-----	1, 2, 3	63	882, 883	21	381
1950--Mar. 16-----	61	-----	3, 6	64	20, 22	21	331, 342, 347, 347a, 347b
1951--Aug. 31-----	374	I	101 (part)	65	²⁶ 229	21	99
Oct. 26-----	578	-----	1, 2, 3	65	648, 649	21	333, 333 note, 353, 353 note
Oct. 30-----	637	-----	1, 2	65	093, 694	21	114a, 114a-1
Nov. 2-----	666	-----	1	65	767, 768	21	174
1953--Aug. 5-----	334	-----	1, 2	67	389	21	352, 357
Aug. 7-----	350	-----	1, 2, 3	67	476, 477	21	331, 334, 374
Aug. 8-----	381	-----	-----	67	493, 494	21	114a
Do-----	394	-----	8	67	506	21	171

²⁰ In the paragraph beginning on page 631 and ending on page 632, only the words reading, "which section is hereby made immediately effective" appearing on page 631.

²¹ Only the proviso in the paragraph headed "Food and Drug Administration", appearing on this page.

²² Only the proviso in the paragraph beginning "Enforcement of Tea Importation Act:" appearing on this page.

²³ Only the following words in the second paragraph appearing on this page: "which may hereafter be cited as section 702A of the Federal Food, Drug, and Cosmetic Act".

²⁴ All of the paragraph beginning "Meat inspection:", which commences on page 531 and ends on page 532.

²⁵ The two provisos in the last paragraph on this page.

²⁶ The proviso in the second full paragraph on this page.

A BILL

To revise, codify, and enact into law, title 21
of the United States Code, entitled "Food
and Drugs".

By Mr. McCulloch

MARCH 4, 1954

Referred to the Committee on the Judiciary

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued June 30, 1954
For actions of June 29, 1954
83rd-2nd, No. 120

CONTENTS

Agricultural appropriation.....25	Foreign aid.....3	Price supports...3,10,16,20
Appropriations.....7,31,32	Fruits & vegetables.....26	REA.....16
Committees.....14	Grain.....17	Reclamation.....13,36
Containers.....26	Housing.....28	Research.....16,29
Dairy industry.....6,20	Labor, farm.....7,19,21	Social Security.....19
Disbursing.....27	Lands, transfer.....29	Statistics.....5,7
Education.....15,16,24	Law revision.....5	Surplus commodities....1,3
Electrification.....33	Legislative program...2,15	Taxation.....9,15
Extension work.....29,30	Livestock and meats...5,17	Trade, foreign.....8
Farm income.....9,16	Loans, farm.....28	Transportation....12,23,34
Farm program.....2,10,17	Minerals.....15,35	Unemployment compensation.....4
Flood control.....18	Personnel.....4,7,11,23,27	Veterans' benefits.....24
Food, distribution....3,16	Potatoes.....22	Water resources.....18
	Poultry.....5	

HIGHLIGHTS: House received conference report on surplus commodities bill. House Rules Committee cleared farm program bill for debate today. House debated foreign aid bill and agreed to amendment requiring use of $\$1\frac{1}{2}$ billion for disposal of surplus commodities. House committees reported bills to extend unemployment compensation to Federal employees and to codify food-drug laws. House received conference reports on Labor-HEW and State, Justice, Commerce appropriation bills. Senate concurred in House amendment to trade agreements bill. Senate debated tax revision bill, and Sens. Douglas and Long discussed decrease in farm income. Rep. Budge introduced bill to require potato labeling and inspection. Rep. Herlong inserted Benson-Nixon radio discussion of farm program. President approved agricultural appropriation bill and bills to authorize 3/8 bushel basket and to continue housing program 1 mo. Sen. Aiken criticized charge that President promised 90% price supports.

HOUSE

- 1. SURPLUS COMMODITIES.** Received the conference report on S. 2475, to authorize the President to use agricultural commodities to improve the foreign relations of the U. S. The conferees reduced from \$1,000,000,000 (House figure) to \$700,000,000 the amount under Title 1. The revised bill, as reported from conference, is printed in the Record (pp. 8673-5).
- 2. FARM PROGRAM.** The Rules Committee reported a resolution providing for consideration of the farm program bill, H. R. 9680. The rule provides for 4 hours of general debate (before the bill is read for amendment under the 5-minute rule) and waives points of order. It is expected that debate on the bill will begin today following votes on the foreign aid bill and several conference reports on appropriation bills (pp. 8734, 8740, D755).
- 3. FOREIGN AID.** Continued debate on H. R. 9678, to authorize a foreign aid program for the fiscal year 1955 (pp. 8676-740). Agreed to an amendment by Rep. Judd to require at least \$500 million of foreign aid funds to be used to finance the purchase and export of surplus agricultural commodities or products thereof and to require that foreign currency proceeds therefrom be used pursuant to the surplus-commodities bill, S. 2475 (pp. 8733-4). Rep. Cobley criticized

"operation reindeer" under which, he claimed, Christmas food packages were distributed in foreign countries (pp. 8729-30).

4. PERSONNEL. The Ways and Means Committee reported without amendment H. R. 9709, to extend and improve the unemployment compensation program, including its extension to Federal employees (H. Rept. 2001)(p. 8747).
5. LAW REVISION. The Judiciary Committee reported without amendment bills to revise, codify, and enact into positive law parts of the U. S. Code, as follows: H. R. 9728, title 21, "Food, Drugs, and Cosmetics" (including various provisions enforced by this Department regarding animals and poultry)(H. Rept. 1979); H. R. 9730, ~~correction of obsolete references (H. Rept. 1981); and H. R. 9729, "Census" (H. Rept. 1980)(p. 8747).~~
6. DAIRY INDUSTRY. Rep. Johnson, Wis., commended the dairy products of Wis. (pp. 8670-1).
7. APPROPRIATIONS. Both Houses agreed to the conference report on H. R. 9517, the D. C. appropriation bill for 1955, and acted on amendments which had been reported in disagreement (pp. 8670, 8757). This bill will now be sent to the President.
Received the conference report on H. R. 9203, the legislative-judiciary appropriation bill for 1955 (p. 8742). House conferees had been appointed earlier in the day (pp. 8669-70).
Received the conference report on H. R. 9447, the Labor-HEW appropriation bill (pp. 8742-4). The conferees agreed to \$50,000 (instead of \$100,000 as provided by the Senate amendment), under Bureau of Labor Standards, for improving conditions of migratory labor. The statement of House conferees includes the following: "The managers on the part of the House and Senate are disturbed by the lack of central coordination of the increasing activities in this field by many executive agencies. The managers believe that the expenditures of the same amount of Federal funds would result in a more effective program if these activities were more closely coordinated, and strongly urge that the 1956 budget for the executive branch be prepared with a view to correcting this deficiency." (pp. 8742-4.)
Received the conference report on H. R. 8067, the State, Justice, Commerce appropriation bill for 1955. The conferees struck out the provisions for additional supergrades in the State and Commerce Departments and agreed to the Senate provision limiting the Commerce Department's funds for management studies. The provision for a census of agriculture was reported in disagreement. Also reported in disagreement was the provision to create an additional position as Assistant Secretary of Commerce in lieu of the present position as Administrative Assistant Secretary of Commerce. (pp. 8744-6.)

SENATE

8. TRADE AGREEMENTS. Concurred in the House amendment to a Senate amendment to H. R. 9474, to extend until June 12, 1955, the authority of the President to enter into reciprocal trade agreements (pp. 8764-5). This bill will now be sent to the President.
9. TAXATION. Continued debate on H. R. 8300, the general tax revision bill (pp. 8761, 8774-96). Sens. Douglas and Long discussed the decrease in farm income (pp. 8780, 8783).
10. PRICE SUPPORTS. Sen. Aiken criticized the charge that the President promised 90% price supports during the 1952 campaign, and claimed that the President's speech at Kasson, Minn., was "doctored by deleting words and sentences until

REVISION OF TITLE 21, U. S. CODE
ENTITLED "FOOD, DRUGS, AND
COSMETICS"

REPORT
FROM THE
COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES
TO ACCOMPANY

H. R. 9728

A BILL TO REVISE, CODIFY, AND ENACT INTO LAW,
TITLE 21, OF THE UNITED STATES CODE, ENTITLED
"FOOD, DRUGS, AND COSMETICS"



JUNE 29, 1954.—Committed to the Committee of the Whole House
on the State of the Union and ordered to be printed

UNITED STATES
GOVERNMENT PRINTING OFFICE

WASHINGTON : 1954

COMMITTEE ON THE JUDICIARY

HOUSE OF REPRESENTATIVES

CHAUNCEY W. REED, Illinois, *Chairman*

LOUIS E. GRAHAM, Pennsylvania	EMANUEL CELLER, New York
KENNETH B. KEATING, New York	FRANCIS E. WALTER, Pennsylvania
WILLIAM M. McCULLOCH, Ohio	THOMAS J. LANE, Massachusetts
EDGAR A. JONAS, Illinois	MICHAEL A. FEIGHAN, Ohio
RUTH THOMPSON, Michigan	FRANK L. CHELF, Kentucky
PATRICK J. HILLINGS, California	J. FRANK WILSON, Texas
SHEPARD J. CRUMPACKER, Jr., Indiana	EDWIN E. WILLIS, Louisiana
WILLIAM E. MILLER, New York	JAMES B. FRAZIER, Jr., Tennessee
DEAN P. TAYLOR, New York	PETER W. RODINO, Jr., New Jersey
USHER L. BURDICK, North Dakota	WOODROW W. JONES, North Carolina
GEORGE MEADER, Michigan	E. L. FORRESTER, Georgia
LAURENCE CURTIS, Massachusetts	BYRON G. ROGERS, Colorado
JOHN M. ROBSION, Jr., Kentucky	HAROLD D. DONOHUE, Massachusetts
DEWITT S. HYDE, Maryland	SIDNEY A. FINE, New York
RICHARD H. POFF, Virginia	

BESSIE M. ORCUTT, *Chief Clerk*

VELMA SMEDLEY, *Assistant Chief Clerk*

SUBCOMMITTEE No. 4

WILLIAM M. McCULLOCH, Ohio, *Chairman*

GEORGE MEADER, Michigan	FRANK L. CHELF, Kentucky
LAURENCE CURTIS, Massachusetts	WOODROW W. JONES, North Carolina
	BYRON G. ROGERS, Colorado

CHARLES J. ZINN, *Law Revision Counsel*

CYRIL F. BRICKFIELD, *Assistant Law Revision Counsel*

WILLIAM P. SHATTUCK, *Assistant Law Revision Counsel*

TABLE OF CONTENTS

	Page
Preliminary statement.....	1
Appendix:	
Revision notes.....	5
Tables:	
1. Statutes at Large.....	51
2. United States Code.....	55
3. Omitted laws.....	56
4. Omitted sections not repealed.....	57
5. Transferred sections.....	57
6. Cross-references.....	57
7. Popular names.....	59
Text of statutes for repeal.....	60
Comparative text of statutes for amendment, and explanations.....	121

REVISION OF TITLE 21, UNITED STATES CODE, ENTITLED
"FOOD, DRUGS, AND COSMETICS"

JUNE 29, 1954.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. McCULLOCH, from the Committee on the Judiciary, submitted
the following

REPORT

[To accompany H. R. 9728]

The Committee on the Judiciary, to whom was referred the bill (H. R. 9728) to revise, codify, and enact into law, title 21 of the United States Code, entitled "Food, Drugs, and Cosmetics," having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PRELIMINARY STATEMENT

PURPOSE OF REVISION

The purpose of this bill is to revise, codify, and enact into law title 21 of the United States Code.

Revision, as distinguished from codification, means the substitution of plain language for awkward terms, reconciliation of conflicting laws, omission of superseded sections, and consolidation of similar provisions. The primary purpose of this revision is not to change substantive law, but to put that law in a form which will be more useful and understandable. Wherever substantive changes are made (which were few), the explanation thereof and the reasons therefor are given in the Revision Note to the section concerned.

SCOPE OF REVISION

This revision is based upon title 21 of the 1952 edition of the United States Code, with the addition of certain provisions from title 15 which are transferred to improve the arrangement of the Code as a whole.

This revision includes all laws applicable to title 21, enacted through April 15, 1954.

Before actual revision was begun a scientific plant was assembled. This included:

1. The complete text of title 21, U. S. C., 1952 ed.
2. The complete text of original acts from the Statutes at Large.
3. Applicable constructions of the courts.
4. Applicable rules and regulations.
5. Pertinent congressional reports, law review articles, and other background materials.

ARRANGEMENT AND NUMBERING

First a preliminary analysis was prepared—a framework on which to build the new title. To improve the arrangement of the title, the old classification was discarded and a new one adopted.

The provisions of this title are now administered, under delegation of powers, by three separate agencies: the Food and Drug Administration in the Department of Health, Education, and Welfare, the Bureau of Animal Industry in the Department of Agriculture, and the Bureau of Narcotics in the Department of the Treasury. Since the provisions administered by each of these agencies are substantially independent of the other provisions, the revised title was divided into the following parts:

PART I. FOOD, DRUGS, AND COSMETICS

This part includes all the laws administered, under delegation of powers, by the Food and Drug Administration in the Department of Health, Education, and Welfare. They are:

- Food, Drug, and Cosmetic Act (21 U. S. C., 1952 ed., § 301 et seq.)
- Import Milk Act (21 U. S. C., 1952 ed., § 141 et seq.)
- Filled Milk Act (21 U. S. C., 1952 ed., § 61 et seq.)
- Tea Act (21 U. S. C., 1952 ed., § 41 et seq.)
- Caustic Poison Act (15 U. S. C., 1952 ed., § 401 et seq.)

The Food and Drug Administration originated in the Department of Agriculture and was given that name in the Department of Agriculture Appropriation Act of 1931, Act May 27, 1930, c. 341, 46 Stat. 392, 422. By 1940 Reorganization Plan No. IV, § 12, effective June 30, 1940, 5 F. R. 2422, 54 Stat. 1237, set out in note to section 133t of Title 5 U. S. C., the Food and Drug Administration and its functions, except those relating to insecticides (7 U. S. C., § 121 et seq.) and naval stores (7 U. S. C., § 91 et seq.), were transferred from the Department of Agriculture to the Federal Security Agency, to be administered under the direction and supervision of the Federal Security Administrator. 1953 Reorganization Plan No. 1, §§ 5, 8, 18 F. R. 2053, 67 Stat. 632, abolished the Federal Security Agency and the office of Federal Security Administrator, transferred the functions of the former to the Department of Health, Education, and Welfare (created by sec. 1 thereof), and transferred the functions of the Federal Security Administrator to the Secretary of such Department. That plan became effective April 11, 1953, under Joint Resolution April 1, 1953, ch. 14, 67 Stat. 18. For a discussion of the effect of these transfers on the laws included in this part, see the Revision Notes to sections 1 and 2 of this revision.

The Federal Food, Drug, and Cosmetic Act of 1938 constitutes most of chapter 3 of this revision. The chapter includes all of those

provisions of the Oleomargarine Tax Repeal Act of March 16, 1950 (ch. 61, 64 Stat. 20), which amended the Federal Food, Drug, and Cosmetic Act of 1938, as well as all other provisions of such 1950 act that were classified to title 21. The earliest legislation relating to food and drugs concerned their importation. The first comprehensive enactment for the protection of consumers against adulterated and misbranded food and drugs was the Wiley Pure Food and Drugs Act of 1906. Although that law was of incalculable benefit to the consumer, loopholes appeared and it became evident that it was not sufficiently broad in scope to meet the requirements of consumer protection under modern conditions. After 5 years of studies and hearings by congressional committees, the Federal Food, Drug, and Cosmetic Act was adopted in 1938. The form and style of that act are such that very little change has been found necessary in incorporating it into this revision. A somewhat more logical arrangement was adopted by transferring the subchapter on enforcement and penalties to the end of the chapter.

Chapter 5 of the revision contains the Import Milk Act, which was enacted in 1927 and the Filled Milk Act of 1923. These have been included as subchapters of a single chapter entitled "Milk and Cream".

The Federal Tea Act of 1897 constitutes chapter 7 of the revision. It governs the standards for tea imported into the United States.

Chapter 9 of the revision relates to caustic poisons and is from sections 401-411 of title 15, U. S. C., 1952 ed. These provisions have been transferred to this revised title because they are administered by the Secretary of Health, Education, and Welfare through the Food and Drug Administration. This transfer places all laws administered by the latter in one title of the Code.

PART II. ANIMALS, POULTRY, AND MEATS

This part contains three enactments which are administered by the Secretary of Agriculture through the Bureau of Animal Industry, namely, Meat Inspection, Disease Prevention and Transportation of Animals and Poultry, and Serums and Analogous Products for Animal Use. The establishment of that Bureau is provided for by 7 U. S. C. § 391 et seq. Those provisions were not transferred to this title because other functions of the Secretary through that Bureau are contained in other titles. Provisions of other titles which are administered, under such delegation of functions, by the Bureau include:

- 7 U. S. C. § 391 et seq. General functions.
- 7 U. S. C. § 429. Improvement of poultry, poultry products and hatcheries.
- 7 U. S. C. § 430. Purchase and testing of serums and analogous improducts.
- 7 U. S. C. § 851 et seq. Marketing of anti-hog-cholera serum, etc.
- 19 U. S. C. § 1201, par. 1606. Certificates of pure breeding for ported animals.
- 19 U. S. C. § 1306. Imports of meat and of animals from certain countries.
- 45 U. S. C. § 71 et seq. 28-Hour Law concerning transportation of animals.
- 46 U. S. C. §§ 466a, 466b. Accommodations on vessels for export animals.

Chapter 53 of the revision contains the Meat Inspection Act of 1907. These provisions are very important to the consumer and provide a complete system of federal supervision of meat "from the hoof to the can." Because this act was drafted in 1907, much improvement in phraseology and arrangement was possible. The 1919 act concerning horse meat is also incorporated in this chapter. The provisions of this chapter are made applicable to imported meats by 19 U. S. C. § 1306.

Provisions concerning the control and eradication of animal and poultry diseases are contained in chapter 55 of the revision. These provisions have been rearranged within the chapter in the following general groups: (1) Control and eradication generally, including cooperation with the States, research, and the disposal of diseased or exposed animals and poultry; (2) Regulation of the transportation of animals and poultry, including quarantine of infected areas; and (3) Regulation of the importation and exportation of animals and poultry. Closely related provisions concerning importation of animals from countries where certain diseases exist are contained in 19 U. S. C. § 1306.

Chapter 57 relates to the preparation and sale of any virus, serum, toxin, or analogous product intended for animal use. These provisions were enacted in 1913 and their arrangement and phraseology have been improved in the revision. The control of such products for human use is entrusted to the Public Health Service under 42 U. S. C. § 262. Regulation of the marketing of anti-hog-cholera serum and hog-cholera virus is provided for by 7 U. S. C. § 851 et seq.

PART III. NARCOTICS

This part contains provisions concerning the importation and exportation of narcotics and the control of domestic production of the opium poppy. Obsolete provisions relating to the extraterritorial rights of the United States in China were omitted from the revision.

The establishment of the Bureau of Narcotics, within the Treasury Department, is provided for in 5 U. S. C. §§ 282-282c. Those sections were not transferred to this title because other functions of the Bureau of Narcotics, under delegated powers, are contained in other titles of the United States Code.

The control of narcotics within the United States, which is administered under delegated functions by both the Bureau of Narcotics and the Internal Revenue Service, is provided for in the Internal Revenue Code, 26 U. S. C. § 2550 et seq. Provisions concerning the forfeiture of vessels, vehicles, and aircraft involved with contraband narcotics are contained in 49 U. S. C. § 781 et seq.

REVISION NOTES AND TABLES

The Revision Notes are keyed to sections of the revision and explain the changes made in text. References to court decisions are supplied wherever necessary and appropriate.

Reference tables are incorporated to facilitate the work of all those interested in the revision. These show the distribution of statutes and of sections from the United States Code in this revision and also omitted and transferred sections.

APPENDIX

REVISION NOTES

Revision notes, explaining the revision of each section of the Federal food, drug, and cosmetic laws, are set forth in this Appendix in numerical order according to section number of the revised title.

Preceding the notes is an analysis of the three parts making up the revised title. Following each part heading is an analysis of the chapters contained in such part, and, under each chapter heading, there is an analysis of sections constituting such chapter.

Title 21

FOOD, DRUGS, AND COSMETICS

Part	Sec.
I. Food and drugs generally-----	1
II. Animals, poultry, and meats-----	451
III. Narcotics-----	711

PART I.—FOOD, DRUGS, AND COSMETICS GENERALLY

Chapter	Sec.
1. Food and Drug Administration-----	1
3. Food, drugs, and cosmetics-----	41
5. Milk and cream-----	201
7. Tea importation-----	261
9. Caustic poisons-----	311

CHAPTER 1—FOOD AND DRUG ADMINISTRATION

Sec.
1. Establishment.
2. Functions of Secretary of Health, Education, and Welfare.
3. Board of Tea Experts.
4. Board of Tea Appeals.

SECTION 1—NEW SECTION

Based on Act May 27, 1930, ch. 341, 46 Stat. 392, 422; 1940 Reorganization Plan No. IV, §§ 12, 13, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237, 5 U. S. C., 1952 ed., § 133t note; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632, 5 U. S. C., 1952 ed., § 623 note.

The name "Food and Drug Administration" was first provided by the Agricultural Appropriation Act of 1931, Act May 27, 1930, cited above, although its functions had been performed under different organizational titles since January 1, 1907, when the Food and Drugs Act of 1906 became effective. Before 1940 the administration of the laws from which this part was derived was vested in the Secretary of Agriculture. By 1940 Reorganization Plan No. IV, cited above, the Food and Drug Administration and its functions, except those

relating to insecticides (7 U. S. C. § 121 et seq.) and naval stores (7 U. S. C. § 91 et seq.), were transferred from the Department of Agriculture to the Federal Security Agency and the title of Chief of the Food and Drug Administration was changed to Commissioner of Food and Drugs. By 1953 Reorganization Plan No. 1, cited above (see also, Revision Note to section 2 of this title), the Federal Security Agency was abolished and its agencies and functions transferred to the Department of Health, Education, and Welfare which was created by section 1 of that plan.

This new section is inserted in the revision to make clear the statutory basis for the Food and Drug Administration.

SECTION 2—NEW SECTION

Based on 1940 Reorganization Plan No. IV, §§ 12, 13, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237, 5 U. S. C., 1952 ed., § 133t note; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632, 5 U. S. C., 1952 ed., § 623 note.

As pointed out in the Revision Note to section 1 of this revision, the 1940 Reorganization Plan transferred the Food and Drug Administration and certain of its functions from the Department of Agriculture to the Federal Security Agency. Section 12 of that Plan further provided that the Administration and its functions should be administered under the direction and supervision of the Federal Security Administrator. Section 13 of the Plan provided that, except as otherwise provided therein, the functions of the head of any department relating to the administration of any agency or function transferred from his department by the Plan were transferred to, and should be exercised by, the head of the department or agency to which such agency or function was transferred. The administration of the original statutes from which Part I of this revision was derived was by their terms vested in the Secretary of Agriculture and apparently devolved upon the Food and Drug Administration by administrative action. Therefore, although these functions were transferred as functions of the Food and Drug Administration, it would appear from the terms of the Reorganization Plan that, from a statutory standpoint, they were formerly functions of the Secretary of Agriculture and became functions of the Federal Security Administrator.

1953 Reorganization Plan No. 1, §§ 5, 8, effective April 11, 1953, 18 F. R. 2053, 67 Stat. —, abolished the Federal Security Agency and the office of Federal Security Administrator, transferred the agencies and functions of the former to the Department of Health, Education, and Welfare (created by section 1 thereof), and transferred the functions of the Federal Security Administrator to the Secretary of such Department. That plan became effective April 11, 1953, under Joint Res. Apr. 1, 1953, ch. 14, 67 Stat. 18. Section 6 of such plan permits the Secretary of Health, Education, and Welfare to authorize any other officer, agency, or employee of the Department of Health, Education, and Welfare to perform any of the functions transferred to such Secretary. Section 7 of such plan authorizes the Secretary to establish central administrative services in the fields of procurement, budgeting, accounting, personnel, library, legal, and other services and activities common to the several agencies of the Department; and while such section permits the Secretary to effect such transfers within

the Department of the personnel employed, the property and records used or held, and the funds available for use in connection with such administrative-service activities as the Secretary deems necessary for the conduct of any services so established, it specifically prohibits the removal, thereunder, of any professional or substantive function vested by law in any officer from the jurisdiction of such officer.

Consideration was given to the question of whether the functions referred to above should by this revision be vested in the Food and Drug Administration and also whether the organization and functions of the Administration, as set out in 13 F. R. 6983, should be included in this revision. However it was decided that in view of the evident purpose of the original statutes and of the Reorganization Plans to vest these functions in the head of the department or agency concerned and to give such head wide discretion in their administration, these functions were, by this revision, vested in the Secretary of Health, Education, and Welfare, leaving their administration to be taken care of by regulations.

This section 2 of the revision is derived from the provision of section 12 of 1940 Reorganization Plan No. IV, cited above, that the Food and Drug Administration and its functions should be administered under the direction and supervision of the Federal Security Administrator (see 1941, 40 Op. Atty. Gen. 34), as affected by sections 5 and 6 of 1953 Reorganization Plan No. 1, also cited above, transferring all functions of the Federal Security Administrator to the Secretary of Health, Education, and Welfare (with permission to authorize other officers, employees of the Department of Health, Education, and Welfare to perform them), and transferring all agencies of the Federal Security Agency, together with their respective functions, personnel, etc., to the Department of Health, Education, and Welfare.

SECTION 3—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 42 (Mar. 2, 1897, ch. 358, § 2, 29 Stat. 605; May 31, 1920, ch. 217, 41 Stat. 712; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; July 12, 1943, ch. 221, 57 Stat. 500; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Section is from part of section 42 of title 21, U. S. C., 1952 ed. The provision of said section 42 that the Board of Tea Experts should prepare and submit standard samples of tea is incorporated in section 262 of this revised title.

Changes were made in phrasology.

SECTION 4—SECTION REVISED

Based on title 21 U. S. C., 1952 ed., § 47 (Mar. 2, 1897, ch. 358, § 6, 29 Stat. 606; May 31, 1920, ch. 217, 41 Stat. 712, 713; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2421, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Section is from only that part of section 47 of title 21 U. S. C., relating to the composition of the United States Board of Tea Appeals and the designation of its members. For remainder of such section 47, see Distribution Table.

Changes were made in phraseology.

CHAPTER 3—FOOD, DRUGS, AND COSMETICS

SUBCHAPTER I—DEFINITIONS, DETERMINATIONS, REPRESENTATIONS, AND
SHORT TITLE

Sec.

41. Definitions.
42. Determination of misbranding.
43. Representation as antiseptic.
44. Short title.

SUBCHAPTER II—FOOD

51. Definitions and standards for food; procedure governing establishment; objections; hearings; applicability of other provisions.
52. Adulterated food.
53. Misbranded food.
54. Exemptions.
55. Tolerances for poisonous ingredients; certification of coal-tar colors for foods.
56. Emergency permit control.
57. Sea food; examination on request of packer; fees.
58. Colored oleomargarine; congressional finding as to sale or serving.
59. Colored oleomargarine; sale in State where produced; packaging and labeling; service in restaurants.
60. Oleomargarine, butterine, imitation butter or cheese; application of State laws.
61. Exemption of meats and meat food products.

SUBCHAPTER III—DRUGS AND DEVICES

71. Adulterated drugs and devices.
72. Misbranded drugs and devices.
73. Exemptions.
74. Certification of coal-tar colors for drugs.
75. New drugs.
76. Certification of drugs containing insulin.
77. Certification of drugs containing certain antibiotics.

SUBCHAPTER IV—COSMETICS

91. Adulterated cosmetics.
92. Misbranded cosmetics.
93. Exemptions.
94. Certification of coal-tar colors for cosmetics.

SUBCHAPTER V—IMPORTS AND EXPORTS

111. Examination and refusal of imports.
112. Exports adulterated or misbranded.
113. Suspension of adulterated imports.

SUBCHAPTER VI—ADMINISTRATIVE PROVISIONS

131. Regulations; hearings; judicial review.
132. Examinations and investigations.
133. Records of interstate shipment.
134. Factory inspection; notice; reports; receipts for samples; copies of analyses.
135. Publicity.
136. Cost of certification of coal-tar colors.
137. Revision of Pharmacopeia; development of analysis and tests.

SUBCHAPTER VII—ENFORCEMENT AND PENALTIES

151. Prohibited acts.
152. Penalties; exemptions.
153. Injunctions.
154. Libel for condemnation.
155. Hearing before violation reported.
156. Report of minor violations.
157. Proceedings in name of United States; subpoenas.

SUBCHAPTER I—DEFINITIONS, DETERMINATIONS,
REPRESENTATIONS, AND SHORT TITLE

SECTION 41—SECTION REVISED

Based on title 21 U. S. C., 1952 ed., §§ 6, 321, 321a, 321b, 321c (July 24, 1919, ch. 26, 41 Stat. 271; Mar. 4, 1923, ch. 268, 42 Stat. 1500; June 25, 1938, ch. 675, §§ 201, 52 Stat. 1041; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; Mar. 2, 1944, ch. 77, 58 Stat. 108; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Section consolidates sections 6, 321 (part), 321a, 321b, and 321c of title 21, U. S. C., 1952 ed. The definition of "butter" is from section 321a (formerly section 6), "nonfat dry milk solids" or "defatted milk solids" from section 321c, and "package" from section 321b. The remainder of this section is from section 321. The definitions have been rearranged in alphabetical order.

In paragraph (f), clause (1), the reference to "official compendium" was substituted for "official United States Pharmacopoeia, official Homoeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them", in view of the definition of official compendium in paragraph (m) of this section.

In definition of "new drug" words "the enactment of this chapter" were changed to "June 25, 1938", the date of enactment of the Federal Food, Drug, and Cosmetics Act (21 U. S. C., 1952 ed., § 301 et seq.).

The provision of subsection (l) of section 321 of title 21, U. S. C., 1952 ed., that the term "immediate container" does not include package liners, was omitted in view of the insertion of the words "other than a package liner" in paragraph (i) of this revised section, defining "Label".

Section 902 (a) of the Federal Food, Drug, and Cosmetic Act (June 25, 1938, ch. 675, § 902 (a), 52 Stat. 1059), which, in title 21, U. S. C., 1952 ed., was also shown as one of the sources of sections 321a and 321b of such title, provided that such sections, which were not a part of such act, should be applicable thereto.

Remainder of section 321 of title 21, U. S. C., 1952 ed., is incorporated in sections 42 and 43 of this title.

Other changes were made in phraseology.

SECTION 42—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 321 (June 25, 1938, ch. 675, § 201, 52 Stat. 1041; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Section constitutes, with changes in phraseology, subsection (n) of section 321 of title 21, U. S. C., 1952 ed.

Remainder of section 321 of title 21, U. S. C., 1952 ed., is incorporated in sections 41 and 43 of this title.

SECTION 43—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 321 (June 25, 1938, ch. 675, § 201, 52 Stat. 1041; 1940 Reorganization Plan No. IV, § 12, eff.

June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Section constitutes, with changes in phraseology, subsection (o) of section 321 of title 21, U. S. C., 1952 ed.

Remainder of section 321 of title 21, U. S. C., 1952 ed., is incorporated in sections 41 and 42 of this title.

SECTION 44—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 301 (June 25, 1938, ch. 675, § 1, 52 Stat. 1040).

The only change was the placing of the popular name within quotation marks.

SUBCHAPTER II—FOOD

SECTION 51—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 341 (June 25, 1938, ch. 675, § 401, 52 Stat. 1046; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632; Apr. 15, 1954, ch. 143, § 1, 68 Stat. 54).

Changes were made in arrangement and phraseology.

SECTION 52—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 342 (June 25, 1938, ch. 675, § 402, 52 Stat. 1046; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; Mar. 16, 1950, ch. 61, § 3 (d), 64 Stat. 21; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

References to other sections were changed to conform with the revised section numbers, "Provided, That" was omitted in subsections (c) and (d), and "the enactment of this chapter" was changed to "June 25, 1938" in subsection (c). Other changes in phraseology were made.

SECTION 53—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 343 (June 25, 1938, ch. 675, § 403, 52 Stat. 1047; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

"Provided, That" was omitted in subsections (e), (i), and (k).

Other changes in phraseology were made.

SECTION 54—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 345 (June 25, 1938, ch. 675, § 405, 52 Stat. 1049; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

The only change was the substitution of a reference to "this chapter" for "this Act".

SECTION 55—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 346 (June 25, 1938, ch. 675, § 406, 52 Stat. 1049; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

First sentence of subsection (a) was divided into two sentences. Changes in phraseology were made.

SECTION 56—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 344 (June 25, 1938, ch. 675, § 404, 52 Stat. 1048; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Subsections (a) and (c) were divided into two sentences each. In subsection (b), "may" was substituted for "is authorized to" and for "shall be privileged * * * to". Other changes in phraseology were made.

SECTION 57—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 14a, 372a (June 30, 1906, ch. 3915, § 10A, as added June 22, 1934, ch. 712, 48 Stat. 1204, and amended Aug. 27, 1935, ch. 739, 49 Stat. 871; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; renumbered § 702A of act June 25, 1938, ch. 675, 52 Stat. 1059 by act July 12, 1943, ch. 221, title II § 1, 57 Stat. 500; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

The penalty provisions of section 372a of 21 U. S. C., 1952 ed., concerning misuse of marks authorized by this section, are incorporated in section 151 (a) of this title. Former section 14a of said title had already been renumbered 372a.

Section 902 (a) of the Federal Food, Drug, and Cosmetic Act (June 25, 1938, ch. 675, § 902 (a), 52 Stat. 1059), which, in title 21, U. S. C., 1952 ed., was also shown as one of the sources of section 372a of such title, provided that section 372a, which originally was not a part of such Act, should remain in force and effect and be applicable to such Act. Such section 372a was later renumbered as section 702A of such Act by the Act of July 12, 1943, cited in the first paragraph of this note.

Changes were made in arrangement and phraseology.

SECTION 58—SECTION REVISED

Based on title 21 U. S. C., 1952 ed., § 347a (Mar. 16, 1950, ch. 61, § 3 (a), 64 Stat. 20).

A minor change was made in phraseology.

SECTION 59—SECTION REVISED

Based on title 21 U. S. C., 1952 ed., § 347 (Mar. 16, 1950, ch. 61, § 3 (c), 64 Stat. 20).

The definitions contained in items (1) and (2) of subsection (e) of this revised section were taken from subsection (f) of section 55 of Title 15 U. S. C., 1952 ed., Commerce and Trade (section 15 of the Federal Trade Commission Act), which also related to this section.

Such subsection (f) of section 55 of Title 15 remains in that title, but a separate section in the bill to enact this revised title amends it to omit the reference therein to section 347 of Title 21 (U. S. C., 1952 ed.), which now, as set out in this revised section, contains identical definitions.

Changes were made in phraseology.

SECTION 60—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 25, 347b (May 9, 1902, ch. 784, § 1, 32 Stat. 193; Mar. 16, 1950, ch. 61, § 6, 64 Stat. 22).

Section consolidates sections 25 and 347b of title 21 U. S. C., 1952 ed.

Sections 25 and 347b of Title 21 U. S. C., 1946 ed., were not a part of the Food, Drug, and Cosmetic Act of 1938, from which the remainder of this chapter, except sections 58 and 113 of this revised title, were derived.

Changes were made in phraseology.

SECTION 61—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 392 (June 25, 1938, ch. 675, § 902 (b), 52 Stat. 1059).

Changes were made in phraseology.

SUBCHAPTER III—DRUGS AND DEVICES

SECTION 71—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 351 (June 25, 1938, ch. 675, § 501, 52 Stat. 1049; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Changes were made in phraseology.

SECTION 72—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 352 (June 25, 1938, ch. 675, § 502, 52 Stat. 1050; June 23, 1939, ch. 242, § 3, 53 Stat. 854; 1940 Reorganization Plan No. IV, §§ 12, 13, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; Dec. 22, 1941, ch. 613, § 2, 55 Stat. 851; July 6, 1945, ch. 281, § 2, 59 Stat. 463; Mar. 10, 1947, ch. 16, § 2, 61 Stat. 11; July 13, 1949, ch. 305, § 1, 63 Stat. 409; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632; Aug. 5, 1953, ch. 334, § 1, 67 Stat. 389).

Provisos were changed to independent sentences. Other changes were made in phraseology.

SECTION 73—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 353 (June 25, 1938, ch. 675, § 503, 52 Stat. 1051; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; Oct. 26, 1951, ch. 578, § 1, 65 Stat. 648; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

References to section 352 of title 21, U. S. C., 1952 ed., were changed to section 72 of this revised title.

Changes were made in phraseology.

SECTION 74—SECTION UNCHANGED

Based on title 21, U. S. C., 1952 ed., § 354 (June 25, 1938, ch. 675, § 504, 52 Stat. 1052; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

SECTION 75—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 355 (June 25, 1938, ch. 675, § 505, 52 Stat. 1052; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Changes were made in phraseology.

SECTION 76—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 356 (June 25, 1938, ch. 675, § 506, as added Dec. 22, 1941, ch. 613, § 3, 55 Stat. 851; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Changes were made in phraseology.

SECTION 77—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 357 (June 25, 1938, ch. 675, § 507, as added July 6, 1945, ch. 281, § 3, 59 Stat. 463; amended Mar. 10, 1947, ch. 16, § 3, 61 Stat. 12; July 13, 1949, ch. 305, § 2, 63 Stat. 409; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632; Aug. 5, 1953, ch. 334, § 2, 67 Stat. 389).

Changes were made in phraseology.

SUBCHAPTER IV—COSMETICS

SECTION 91—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 361 (June 25, 1938, ch. 675, § 601, 52 Stat. 1054).

“Provided, That” was omitted in subsection (a) and “section 364” in subsection (e) was changed to the revised section number. Other changes were made in phraseology.

SECTION 92—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 362 (June 25, 1938, ch. 675, § 602, 52 Stat. 1054; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

“Provided, That” was omitted in subsection (b). Other changes were made in phraseology.

SECTION 93—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 363 (June 25, 1938, ch. 675, § 603, 52 Stat. 1054; 1940 Reorganization Plan No. IV, § 12, eff. June

30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

A change was made in phraseology.

SECTION 94—SECTION UNCHANGED

Based on title 21, U. S. C., 1952 ed., § 364 (June 25, 1938, ch. 675, § 604, 52 Stat. 1055; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

SUBCHAPTER V—IMPORTS AND EXPORTS

SECTION 111—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 381 (a), (b), (c) (June 25, 1938, ch. 675, § 801, 52 Stat. 1058; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; Oct. 18, 1949, ch. 696, 63 Stat. 882, 883; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Section is from subsections (a), (b), and (c) of section 381 of title 21, U. S. C., 1952 ed. Subsection (d) of said section constitutes section 112 of this title.

Changes were made in phraseology.

SECTION 112—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 381 (d) (June 25, 1938, ch. 675, § 801, 52 Stat. 1058; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Section is from subsection (d) of section 381 of title 21, U. S. C., 1952 ed. The remainder of said section constitutes section 111 of this revised title. Phrase "this subsection" was changed to "this section". Other changes were made in phraseology.

SECTION 113—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 18 (Aug. 30, 1890, ch. 839, § 4, 26 Stat. 415).

This section was not a part of the Food, Drug, and Cosmetic Act of 1938, from which the remainder of this chapter, except section 58 of this revised title, was derived.

Changes were made in phraseology.

SUBCHAPTER VI—ADMINISTRATIVE PROVISIONS

SECTION 131—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 371 (June 25, 1938, ch. 675, § 701, 52 Stat. 1055; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632; Apr. 15, 1954, ch. 143, § 2, 68 Stat. 55).

In subsection (f) (1), "United States Court of Appeals" was substituted for "Circuit Court of Appeals of the United States" in accordance with the change in name of that court by 28 U. S. C. § 43.

Changes were made in phraseology.

SECTION 132—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 372 (June 25, 1938, ch. 675, § 702, 52 Stat. 1056; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Changes were made in phraseology.

SECTION 133—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 373 (June 25, 1938, ch. 675, § 703, 52 Stat. 1057; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Changes were made in phraseology.

SECTION 134—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 374 (June 25, 1938, ch. 675, § 704, 52 Stat. 1057; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632; Aug. 7, 1953, ch. 350, § 1, 67 Stat. 476, 477).

Changes were made in phraseology.

SECTION 135—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 375 (June 25, 1938, ch. 675, § 705, 52 Stat. 1057; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Changes were made in phraseology.

SECTION 136—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 376 (June 25, 1938, ch. 675, § 706, 52 Stat. 1058).

Changes were made in phraseology.

SECTION 137—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 377 (July 12, 1943, ch. 221, title II, § 201, 57 Stat. 500; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Changes were made in phraseology.

SUBCHAPTER VII—ENFORCEMENT AND PENALTIES

SECTION 151—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 331, 372a (June 30, 1906, ch. 3915, § 10A, as added June 22, 1934, ch. 712, 48 Stat. 1204; Aug.

27, 1935, ch. 739, 49 Stat. 871; June 25, 1938, ch. 675, §§ 301, 702A, 52 Stat. 1042, 1043; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; Dec. 22, 1941, ch. 613, § 1, 55 Stat. 851; July 12, 1943, ch. 221, title II, § 1, 57 Stat. 500; July 6, 1945, ch. 281, § 1, 59 Stat. 463; Mar. 10, 1947, ch. 16, § 1, 61 Stat. 11; June 24, 1948, ch. 613, § 1, 62 Stat. 582; Mar. 16, 1950, ch. 61, § 3 (b), 64 Stat. 20; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632; Aug. 7, 1953, ch. 350, § 2, 67 Stat. 477).

Section consolidates section 331 of title 21, U. S. C., 1952 ed., with part of section 372a of such title.

References to other sections were changed to refer to the revised section numbers.

In paragraph (i) reference to section 57 of this revised title was inserted on authority of section 372a of title 21, U. S. C., 1952 ed. Said section 372a contained a penalty provision similar to paragraph (i) of this section applying to marks, stamps, etc., authorized under that section concerning seafood. That provision has thus been consolidated with paragraph (i). The penalty provided by said section 372a was imprisonment for not more than one year or a fine of not less than \$1,000 nor more than \$5,000, or both. As consolidated in this section, a violation of such provision will be subject to the penalties provided by section 152 of this revised title, namely, not more than one year or \$1,000 or both for first offense and not more than three years or \$10,000 or both for either a subsequent offense or a violation with intent to defraud or mislead. The effect of the revision is therefore to decrease the maximum fine for a first offense and to increase both fine and imprisonment maximums in the case of a subsequent offense or a violation with intent to defraud or mislead. This is justified by the great similarity between this offense and the other offenses under paragraph (i) of this section. The provisions of said paragraph (i) and the penalties therefor in section 152 of this revised title were enacted in 1938, while said section 372a was enacted in 1934 and incorporated by reference in the 1938 act. This revision therefore represents the most recent expression of Congressional intent on this subject and no reason appears why a distinction should be made in the penalties for misuse of the different types of marks, stamps, etc.

Section 902 (a) of the Federal Food, Drug, and Cosmetics Act (June 25, 1938, ch. 675, § 902 (a), 52 Stat. 1059), which, in title 21, U. S. C., 1952 ed., was also shown as one of the sources of section 372a of such title, provided that such section 372a, which originally was not a part of such Act, should remain in force and effect and be applicable to such Act. Such section 372a was later renumbered as section 702A of such Act by the Act of July 12, 1943, cited in the first paragraph of this note.

The remainder of section 372a of title 21, U. S. C., 1952 ed., constitutes section 57 of this revised title.

Changes were made in phraseology.

SECTION 152—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 333 (June 25, 1938, ch. 675, § 303, 52 Stat. 1043; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; Oct. 26, 1951, ch. 578,

§ 2, 65 Stat. 649; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Words "guilty of a misdemeanor" were omitted as surplusage. See section 1 of title 18 U. S. C., Crimes and Criminal Procedure, and Reviser's Note set out thereunder. Under that section, the offense of violating "any of the provisions of section 151 of this title" would automatically be a misdemeanor in view of the maximum punishment prescribed by this section.

Words "and shall on conviction thereof be subject to" (the punishment prescribed) were likewise omitted as surplusage. Punishment cannot be imposed without a conviction.

Other changes were made in phraseology.

SECTION 153—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 332 (June 25, 1938, ch. 675, § 302, 52 Stat. 1043).

In subsection (a), the reference to "section 381 (relating to notice to opposite party) of Title 28" was changed to a reference to Rule 65 (a) (b) of the Federal Rules of Civil Procedure, since such section 381 was repealed in the revision of title 28. Its provisions are now covered by that rule.

In subsection (b), reference to section 387 of title 28 was changed to section 402 of title 18 (U. S. C.), to which such section 387 was transferred in the revision of that title, enacted into law in 1948.

Other provisions of said former section 387 concerning the procedure for trial of criminal contempt cases are contained in Rule 42 of the Rules of Criminal Procedure for the United States District Courts.

Other changes were made in phraseology.

SECTION 154—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 334 (June 25, 1938, ch. 675, § 304, 52 Stat. 1044; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; June 24, 1948, ch. 613, § 2, 62 Stat. 582; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632; Aug. 7, 1953, ch. 350, § 3, 67 Stat. 477).

The provisions of section 334 of title 21, U. S. C., 1946 ed., have been rearranged in the interests of clarity.

Subsections (a) and (b) of this section are from the first provisions of subsections (a) and (b) of said section 334, respectively.

Subsection (c) is from the provisions of subsection (a) of said section limiting the number of libels in certain cases of misbranding and providing for the removal of such cases to more convenient districts for trial.

Subsection (d) is from the provision of subsection (b) of said section 334 providing for consolidation of multiple proceedings for trial.

Subsection (e) is from subsection (f) of said section 334. Reference to subsections "(a) or (b)" was changed to "(c) or (d)" to conform with the revised arrangement.

Subsections (f)–(h) are from subsections (c)–(e), respectively, or said section 334.

Other changes were made in phraseology.

SECTION 155—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 335 (June 25, 1938, ch. 675, § 305, 52 Stat. 1045; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Changes were made in phraseology.

SECTION 156—SECTION UNCHANGED

Based on title 21, U. S. C., 1952 ed., § 336 (June 25, 1938, ch. 675, § 306, 52 Stat. 1045; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

SECTION 157—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 337 (June 25, 1938, ch. 675, § 307, 52 Stat. 1046).

At beginning of second sentence "Notwithstanding the provisions of section 654 of title 28" was omitted since that section was repealed in the revision of title 28 and is now covered by Rule 45 of the Federal Rules of Civil Procedure and Rule 17 of the Rules of Criminal Procedure for the United States District Courts.

CHAPTER 5—MILK AND CREAM

SUBCHAPTER I—IMPORTATION OF MILK AND CREAM

Sec.

- 201. Definitions.
- 202. Permits for importation.
- 203. Unfitness for importation.
- 204. Inspection; issue of permits; regulations.
- 205. Penalties.
- 206. State powers concerning milk and cream.
- 207. Short title.

SUBCHAPTER II—FILLED MILK

- 221. Definitions.
- 222. Filled milk; Congressional finding concerning.
- 223. Regulations.
- 224. Penalties.
- 225. Short title.

SUBCHAPTER I—IMPORTATION OF MILK AND CREAM

SECTION 201—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 149 (Feb. 15, 1927, ch. 155, § 9, 44 Stat. 1103).

Changes were made in phraseology.

SECTION 202—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 141 (Feb. 15, 1927, ch. 155, § 1, 44 Stat. 1101; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Phrase "On or after May 16, 1927" was omitted as no longer necessary.

Changes were made in phraseology.

SECTION 203—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 142 (Feb. 15, 1927, ch. 155, § 2, 44 Stat. 1101).

In paragraph (c), "United States Department of Agriculture" was substituted for "Bureau of Dairy Industry of the United States Department of Agriculture", because, according to information received, the term "Bureau of Dairy Industry", with respect to this section, is obsolete in view of changes in functions within the Department of Agriculture.

Changes were made in phraseology.

SECTION 204—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 143 (Feb. 15, 1927, ch. 155, § 3, 44 Stat. 1102; 1940 Reorganization Plan No. IV, § 12, eff. June, 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Changes were made in phraseology.

SECTION 205—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 144, 145 (Feb. 15, 1927, ch. 155, §§ 4, 5, 44 Stat. 1103).

Subsections (a) and (b) are from sections 144 and 145, respectively, of title 21, U. S. C., 1946 ed.

Style of penalty provision was changed to conform with that adopted in the revision of title 18, U. S. C. Provision for a minimum fine of \$50 was omitted for the reason stated in Revision Note to section 511 of this revised title.

Other changes were made in phraseology.

SECTION 206—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 148 (Feb. 15, 1927, ch. 155 § 8, 44 Stat. 1103).

Changes were made in phraseology.

SECTION 207—NEW SECTION

Section is new, but merely confirms the popular name by which the provisions carried into this subchapter have been known.

SUBCHAPTER II—FILLED MILK

SECTION 221—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 61 (Mar. 4, 1923, ch. 262, § 1, 42 Stat. 1486).

Changes were made in phraseology.

SECTION 222—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 62 (Mar. 4, 1923, ch. 262, § 2, 42 Stat. 1487).

Section is from part of section 62 of title 21, U. S. C., 1946 ed. The remainder of that section is consolidated in section 224 of this title.

Changes were made in phraseology.

SECTION 223—SECTION REVISED

Based on Title 21 U. S. C., 1952 ed., § 64 (Mar. 4, 1923, ch. 262, § 4, as added Aug. 27, 1935, ch. 743, 49 Stat. 885; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Changes were made in phraseology.

SECTION 224—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 62, 63 (Mar. 4, 1923, ch. 262, §§ 2, 3, 42 Stat. 1487).

Section consolidates the provision of section 62 of title 21, U. S. C., 1946 ed., making the manufacture, shipment, or delivery for shipment of filled milk unlawful, with section 63 of that title.

The remainder of said section 62 is contained in section 222 of this title.

Words “upon conviction thereof” were omitted as unnecessary since punishment cannot be imposed without a conviction.

Other changes were made in phraseology.

SECTION 225—NEW SECTION

Section is new, but merely confirms the popular name by which the provisions carried into this subchapter have been known.

CHAPTER 7—TEA IMPORTATION

Sec.

- 261. Substandard tea importation; materials for manufacturing.
- 262. Standards; duplicate samples.
- 263. Importer's bonds and fees; sampling and examination.
- 264. Permit for delivery; inferior grades; partial delivery.
- 265. Examiners.
- 266. Examination according to usages of trade.
- 267. Re-examination by Appeals Board; disposition of tea.
- 268. Procedure for re-examination; assistance of experts.
- 269. Reimporting rejected teas; forfeitures.
- 270. Regulations.
- 271. Short title.

SECTION 261—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 41 (Mar. 2, 1897, ch. 358, § 1, 29 Stat. 604; May 16, 1908, ch. 170, 35 Stat. 163; May 31, 1920, ch. 217, 41 Stat. 712; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632.).

Changes were made in phraseology.

SECTION 262—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 42, 43 (Mar. 2, 1897, ch. 358, §§ 2, 3, 29 Stat. 604, 605; May 31, 1920, ch. 217, 41 Stat. 712; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

First sentence of this section is from section 42 of title 21, U. S. C., and the remainder of this section is from section 43 of said title. Other provisions of said section 42 are contained in section 3 of this title.

Changes were made in phraseology.

SECTION 263—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 44, 46a (Mar. 2, 1897, ch. 358, § 4, 29 Stat. 605; May 31, 1920, ch. 217, 41 Stat. 712; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; June 27, 1940, ch. 437, title I, 54 Stat. 632; July 1, 1941, ch. 269, title II, 55 Stat. 478; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Subsections (a) and (b) of this section are from sections 44 and 46a, respectively, of title 21, U. S. C., 1952 ed.

Changes were made in phraseology.

SECTION 264—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 45 (Mar. 2, 1897, ch. 358, § 5, 29 Stat. 605).

Changes were made in phraseology.

SECTION 265—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 46 (Mar. 2, 1897, ch. 358, § 7, 29 Stat. 606; May 31, 1920, ch. 217, 41 Stat. 712, 713).

Section is from first sentence of section 46 of title 21, U. S. C., 1952 ed. Other provisions of that section are in section 266 of this title.

Changes were made in phraseology.

SECTION 266—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 46 (Mar. 2, 1897, ch. 358, § 7, 29 Stat. 606; May 31, 1920, ch. 217, 41 Stat. 712, 713).

Section is from last sentence of section 46 of title 21, U. S. C., 1952 ed. Other provisions of that section are contained in section 265 of this title.

SECTION 267—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 47 (Mar. 2, 1897, ch. 358, § 6, 29 Stat. 606; May 31, 1920, ch. 217, 41 Stat. 712, 713; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Provision of section 47 of title 21, U. S. C., 1952 ed., for appointment of the United States Board of Tea Appeals is contained in section 4 of this title.

Changes were made in phraseology.

SECTION 268—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 48 (Mar. 2, 1897, ch. 358, § 8, 29 Stat. 606; May 31, 1920, ch. 217, 41 Stat. 712).

Changes were made in phraseology.

SECTION 269—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 49 (Mar. 2, 1897, ch. 358, § 9, 29 Stat. 606; May 31, 1920, ch. 217, 41 Stat. 712).

Words "an examiner" were substituted for "a customs examiner" to conform with present practice. According to information received, the examinations referred to in this chapter are made by officials of the Food and Drug Administration.

Reference to "sections 41-46 and 47-50 of this title" was changed to "this chapter". Other changes were made in phraseology.

SECTION 270—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 50 (Mar. 2, 1897, ch. 358, § 10, 29 Stat. 607; May 31, 1920, ch. 217, 41 Stat. 712; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Changes were made in phraseology.

SECTION 271—NEW SECTION

Section is new, but merely confirms the popular name by which the provisions carried into this chapter and sections 3 and 4 of this title have been known.

CHAPTER 9—CAUSTIC POISONS

Sec.

311. Definitions.

312. Misbranded shipments.

313. Misbranded imports.

314. Removal of labels.

315. Enforcement.

316. Libel for condemnation.

317. Penalties.

318. Institution of condemnation and criminal proceedings.

319. Construction; application of other provisions.

320. Short title.

SECTION 311—SECTION REVISED

Based on section 402 of title 15, U. S. C., 1952 ed., Commerce and Trade (Mar. 4, 1927, ch. 489, § 2, 44 Stat. 1406).

Section incorporates all of section 402 of title 15, U. S. C., 1952 ed., except subsection (d) thereof.

Words "The term" at the beginning of each subdivision were omitted as unnecessary.

A definition of person was inserted to harmonize with other sections of this title defining such term. See, also, section 1 of title 1, U. S. C., General Provisions.

Changes were made in phraseology.

Subsection (d) of 15 U. S. C., 1952 ed., § 402 is incorporated in section 319 of this title.

SECTION 312—SECTION REVISED

Based on section 403 of title 15, U. S. C., 1952 ed., Commerce and Trade (Mar. 4, 1927, ch. 489, § 3, 44 Stat. 1407).

Section was divided into subdivisions and paragraphs (a), (b), and (c) were renumbered paragraphs (1), (2), and (3). The phraseology of paragraph (3) was changed for greater clarity. Other changes were made in phraseology.

SECTION 313—SECTION REVISED

Based on section 405 of title 15, U. S. C., 1952 ed., Commerce and Trade (Mar. 4, 1927, ch. 489, § 5, 44 Stat. 1408; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Changes were made in phraseology.

SECTION 314—SECTION REVISED

Based on section 406 of title 15, U. S. C., 1952 ed., Commerce and Trade (Mar. 4, 1927, ch. 489, § 6, 44 Stat. 1409).

Changes were made in phraseology.

SECTION 315—SECTION REVISED

Based on section 409 of title 15, U. S. C., 1952 ed., Commerce and Trade (Mar. 4, 1927, ch. 489, § 9, 44 Stat. 1409; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

In subsection (b), the term "United States district attorney" was changed to "United States attorney" to conform with title 28, U. S. C., Judiciary and Judicial Procedure, enacted into law in 1948. See section 501 et seq. of such title.

In subsection (c) (3), "Classification Act of 1949" was substituted for "sections 661-663, 664-669, 670-672, 673 and 674 of title 5" (Classification Act of 1923), inasmuch as such sections in title 5, U. S. C., Executive Departments and Government Officers and Employees, were repealed by the Classification Act of 1949 (Act Oct. 28, 1949, ch. 782, 63 Stat. 954; 5 U. S. C., § 1071 et seq.). See section 1106 of such Act (63 Stat. 972).

Other changes were made in phraseology.

SECTION 316—SECTION REVISED

Based on section 404 of title 15, U. S. C., 1952 ed., Commerce and Trade (Mar. 4, 1927, ch. 489, § 4, 44 Stat. 1408).

Changes were made in phraseology.

SECTION 317—SECTION REVISED

Based on section 407 of title 15, U. S. C., 1952 ed., Commeree and Trade (Mar. 4, 1927, ch. 489, § 7, 44 Stat. 1409).

Style of section was changed to conform partly with that adopted in the revision of title 18, U. S. C., Crimes and Criminal Procedure, which was enacted into law in 1948.

The penalty provided by section 407 of title 15, U. S. C., 1952 ed., from which this section is derived is a fine of not more than \$200 or imprisonment for not more than 90 days, or both. This seems clearly inadequate in comparison with the penalties for the misbranding of other products which are supervised by the Food and Drug Administration. The provisions of section 407 were adopted in 1927. Because the 1938 Food, Drug and Cosmetic Act is a later expression of Congressional opinion concerning the gravity of offenses involving the misbranding of products which may be dangerous to consumers, the penalties of that act have been adopted in the revised section, namely, maximum penalties of \$1,000 or one year or both, for the first offense and \$10,000 or three years or both for either a subsequent offense or a violation with intent to defraud or mislead.

SECTION 318—SECTION REVISED

Based on section 408 of title 15, U. S. C., 1952 ed., Commeree and Trade (Mar. 4, 1927, ch. 489, § 8, 44 Stat. 1409; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

The term "United States attorney" was substituted for "United States district attorney" to conform with section 501 et seq. of title 28 U. S. C., Judiciary and Judicial Procedure, enacted into law in 1948.

Changes were made in phraseology.

SECTION 319—SECTION REVISED

Based on sections 402 and 411 of title 15, U. S. C., 1952 ed., Commeree and Trade (Mar. 4, 1927, ch. 489, §§ 2, 12, 44 Stat. 1406, 1410).

Subsection (a) is from subsection (d) of 15 U. S. C., 1946 ed., § 402. The remainder of that section is incorporated in section 311 of this title.

Subsection (b) is from 15 U. S. C., 1952 ed., § 411. In paragraph (1) "Chapter 3 of this title" was substituted for a reference to the Food and Drug Act of 1906. The act referred to in paragraph (3) constitutes sections 2-601 to 2-617 of the District of Columbia Code, 1951 ed.

Other changes were made in phraseology.

SECTION 320—SECTION REVISED

Based on section 401 of title 15, U. S. C., 1952 ed., Commeree and Trade (Mar. 4, 1927, ch. 489, § 1, 44 Stat. 1406).

The only change was the placing of the popular name within quotation marks.

PART II.—ANIMALS, POULTRY AND MEATS

Chapter	Sec.
51. Department of Agriculture.....	451
53. Meat inspection.....	491
55. Animal and poultry disease prevention; transportation, import, and export.....	551
57. Serums and analogous products.....	611

CHAPTER 51—DEPARTMENT OF AGRICULTURE

Sec.

451. Administration of Part II; delegation of functions.

SECTION 451—NEW SECTION

This section has been inserted to make clear which agency is charged with the enforcement of this part, as distinguished from Parts I and III of this title. The language of the second sentence of this section was taken from 1947 Reorganization Plan No. I, § 301, 12 F. R. 4534, 61 Stat. 952, set out in note to section 391 of title 7, U. S. C., which transferred the functions of the Bureau of Animal Industry to the Secretary of Agriculture.

CHAPTER 53—MEAT INSPECTION

Sec.

- 491. Definitions.
- 492. Ante-mortem inspections.
- 493. Post-mortem inspections.
- 494. Meat food products.
- 495. Canning or packing meats and products; labels.
- 496. Inspection of establishments.
- 497. Time of inspections.
- 498. Meat for export; inspection; clearance.
- 499. Inspector's certificates.
- 500. Inspection, stamps or marks.
- 501. Farmers and retail butchers and dealers, exemptions.
- 502. Inspectors; appointment, powers, and duties.
- 503. Regulations.
- 504. Cost of inspections.
- 505. Transportation of uninspected and unmarked articles.
- 506. Transportation or sale in violation of chapter.
- 507. Forgery or misuse of marks or certificates.
- 508. Penalties generally.
- 509. Penalty for sale or transportation of unfit products by exempted persons.
- 510. Bribery; acceptance of gifts.
- 511. Horse meat.
- 512. Dairy products for export.
- 513. Reindeer.

SECTION 491—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 91 (Mar. 4, 1907, ch. 2907, 34 Stat. 1265; June 29, 1938, ch. 810, 52 Stat. 1235).

The definition of "farmer" is from section 91 of title 21, U. S. C., 1952 ed.

The definitions of "retail butcher" and "retail dealer" are also from section 91 of title 21, U. S. C., 1952 ed. The provisions thereof are combined in this revised section because the defining language of the two terms was substantially identical. In the combined definition, words "partnership, association, or corporation", which followed "person", were omitted as covered by the definition of "person" in section 1 of title 1, U. S. C., General Provisions. That definition of

“person” relates to such term as used in any Act of Congress, and, in addition to partnerships, associations and corporations, includes “companies”, “firms”, “societies” and “joint stock companies”. The extension of the term “person”, as used in this revised section, to the latter group, is deemed advisable for the purpose of completeness.

In the definition of farmer, word “natural” was inserted before “person” for the purpose of clarity, and in view of rulings of the Department of Agriculture.

The other definitions are new, and were inserted to avoid repetition of the definitive terms throughout the other sections of this chapter.

The definition of “establishment” adopts the phrase used in all sections of title 21, U. S. C., 1952 ed., §§ 71–96, in which it appears, except that in section 71 the word “salting” is not used. However, it would seem that “similar establishment” would include a salting establishment in that section, and that its omission in that section and inclusion in the other sections does not affect the scope of those sections.

Changes were made in phraseology and arrangement.

Other provisions of section 91 of title 21, U. S. C., 1952 ed. are contained in sections 501 and 509 of this title.

SECTION 492—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 71 (Mar. 4, 1907, ch. 2907, 34 Stat. 1260).

Section was divided into sentences. Phrase “by inspectors appointed for that purpose” following “cause to be made” was omitted as unnecessary in view of section 503 of this title, providing for appointment of inspectors. References to cattle, sheep, swine, and goats, after the first such reference, were changed to “such animals.” Phrase “all as provided by the rules and regulations to be prescribed by the Secretary of Agriculture” was changed to “under the Secretary’s rules and regulations.”

“Secretary of Agriculture” was changed to “Secretary” and “any slaughtering, packing, meat-canning, rendering, or similar establishment” was changed to “any establishment” because these terms are defined in section 491 of this title. The definition of “establishment” in that section includes also the word “salting” which does not appear in section 71 of title 21, U. S. C., 1952 ed. However, it would seem that a salting establishment would be a “similar establishment” under said section 71. See Revision Note to section 491 of this title.

Phrase “the meat and meat food products of which are to be used in interstate or foreign commerce” following “goats” was substituted for “and the meat and meat products thereof are to be used in interstate or foreign commerce” following “slaughtered” in first sentence for greater clarity. (See 28 Op. Atty. Gen. 369, 371 (1910).)

Other changes were made in phraseology.

SECTION 493—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 72, 73 (Mar. 4, 1907, ch. 2907, 34 Stat. 1260, 1261).

Section consolidates the provisions of sections 72 and 73 of title 21, U. S. C., 1952 ed. The last paragraph is from said section 73 and remainder of this section is from said section 72.

"Secretary of Agriculture" was changed to "Secretary" and "slaughtering, meat-canning, salting, packing, rendering, or similar establishment" to "establishment" because these terms are so defined in section 491 of this title.

In the first paragraph, "by inspectors appointed for that purpose" following "cause to be made" was omitted as unnecessary in view of section 502 of this title, providing for appointment of inspectors. In the last paragraph, "The foregoing provisions" was changed to "The provisions of this section."

Other changes were made in arrangement and phraseology.

SECTION 494—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 74 (Mar. 4, 1907, ch. 2907, 34 Stat. 1261).

Phrase "by inspectors appointed for that purpose" following "cause to be made" in first sentence was omitted as unnecessary in view of section 502 of this title, providing for appointment of inspectors.

"Secretary of Agriculture" was changed to "Secretary" and "slaughtering, meat-canning, salting, packing, rendering, or similar establishment" to "establishment" because these terms are so defined in section 491 of this title.

In the third paragraph, "by the establishment in the presence of an inspector" was substituted for "as hereinbefore provided."

Provision of section 74 of title 21, U. S. C., 1952 ed., concerning the inspector's access to the establishment at all times is consolidated in section 497 of this title.

Other changes were made in phraseology.

SECTION 495—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 75 (Mar. 4, 1907, ch. 2907, 34 Stat. 1262).

"Person, firm, or corporation" was changed to "person" because of the definition of "person" in title 1, U. S. C., General Provisions, § 1.

Other changes were made in phraseology.

SECTION 496—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 76 (Mar. 4, 1907, ch. 2907, 34 Stat. 1262).

Phrase "all slaughtering, meat-canning, salting, packing, rendering, or similar establishments" was changed to "all establishments defined in section 491 of this title".

Other changes were made in phraseology.

SECTION 497—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 74, 77 (Mar. 4, 1907, ch. 2907, 34 Stat. 1261, 1262).

Subsec. (a) is from section 77 of title 21, U. S. C., 1952 ed. Phrase “required by sections 492, 493, 494, and 495 of this title” was substituted for “of all cattle, sheep, swine, and goats, and the food products thereof, slaughtered and prepared in the establishments hereinbefore described for the purpose of interstate commerce”.

Subsection (b) is from a provision of section 74 of said title. Although that section related to meat food products, it would seem that this provision would apply to all inspections and examinations under this chapter. Words “under this chapter” were inserted in text of this subsection.

Other changes were made in phraseology.

SECTION 498—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 83, 85 (Mar. 4, 1907, ch. 2907, 34 Stat. 1263).

Subsections (a) and (b) are from sections 83 and 85, respectively, of title 21, U. S. C., 1952 ed.

In subsection (a), “the meat of which, fresh, salted, . . . or otherwise prepared” was changed to “when the fresh, salted, . . . or otherwise prepared meat or meat food products of such animals”.

In subsection (b) the phrase “being the meat of animals killed after the passage of this act, or except as hereinbefore provided” in the original act, which appears in title 21, U. S. C., 1952 ed., § 85, as “being the meat of animals killed except as hereinbefore provided”, was omitted. It would seem that the “hereinbefore provided” referred to a proviso omitted from said title 21 which concerned meat on hand on October 1, 1906. As now set out in said section 85, this provision seems to exempt from this section the meat of animals killed under the preceding sections of the chapter and this does not appear to be the intent of the section.

In said subsection (b) “from an inspector appointed under the provisions of sections 71–93 of this title” was changed to “from an inspector” since inspector is defined in section 491 of this revised title. Phrase “the said cattle, sheep, swine, and goats” was changed to “the cattle, sheep, swine, and goats from which such meat or meat food product was obtained”. In the provision concerning waiver, “said cattle, sheep, swine, and goats or meats are” was changed to “such meat or meat food product is” since this section relates only to the meat and meat food products covered by chapter.

Other changes were made in phraseology.

SECTION 499—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 81, 84, 86 (Mar. 4, 1907, ch. 2907, 34 Stat. 1263).

Text of this section is from section 86 of title 21, U. S. C., 1952 ed. Texts of sections 81 and 84 of this title, which provided for appointment of inspectors authorized to give certificates for the purposes of sections 80 and 83 of title 21, U. S. C., 1952 ed., were omitted as covered by this section and by section 502 of this revised title, providing for appointment of inspectors generally. Such section 80 is incorporated in section 565 of this title. Such section 83 is incorporated in section 498 of this title.

Words in second paragraph "the carcasses of cattle, sheep, swine, and goats, and the meat and meat food products thereof" were substituted for words in section 86 of title 21, U. S. C., 1952 ed., "the cattle, sheep, swine, and goats or their carcasses and products"; since this chapter is not concerned with live animals for export. For provisions on that subject, see chapter 55 of this title.

Changes were made in phraseology.

SECTION 500—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 89 (Mar. 4, 1907, ch. 2907, 34 Stat. 1264).

Section is from part of section 89 of title 21, U. S. C., 1952 ed. Other provisions of said section 89, concerning appointment of inspectors and the Secretary's regulations, are contained in sections 502 and 503 of this revised title.

Words "as 'Inspected and passed' " were inserted to make clear the obvious intent of this provision, since a requirement that the inspectors refuse to mark articles which do not comply with this provision would conflict with other requirements of this chapter for use of the mark "Inspected and Condemned." Phrase "establishment hereinbefore mentioned" was changed to "establishment subject to this chapter."

Other changes were made in phraseology.

SECTION 501—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 91 (Mar. 4, 1907, ch. 2907, 34 Stat. 1265; June 29, 1938, ch. 810, 52 Stat. 1235).

Section is derived from part of section 91 of title 21, U. S. C., 1952 ed. Provisions of said section 91 defining farmer, retail butcher, and retail dealer, are incorporated in section 491 of this revised title and the penalty provision of said section is contained in section 509 of this revised title.

In subsection (b), "any slaughtering, meat-canning, salting, packing, rendering, or similar establishment" was changed to "any establishment" since "establishment" is so defined in section 491 of this revised title.

Other changes were made in phraseology.

SECTION 502—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 89 (Mar. 4, 1907, ch. 2907, 34 Stat. 1264).

Section is from part of section 89 of title 21, U. S. C., 1952, ed. Other provisions of said section 89, concerning the marking of inspected articles and the Secretary's regulations, are contained in sections 500 and 503 of this title.

Phrase "the examinations and inspections provided for under this chapter" was substituted for provisions specifying the various examinations and inspections.

Other changes were made in phraseology.

SECTION 503—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 89 (Mar. 4, 1907, ch. 2907, 34 Stat. 1264).

Section is from part of section 89 of title 21, U. S. C., 1952 ed. Other provisions of said section 89, concerning appointment of inspectors and the marking of inspected articles, are contained in sections 500 and 502 of this title.

Changes were made in phraseology.

SECTION 504—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 97–97d, 98 (July 30, 1947, ch. 356, title I, § 1, 61 Stat. 531, 532; June 5, 1948, ch. 423, 62 Stat. 344.)

Text of section is based on section 98 of title 21, U. S. C., 1952 ed. Phrase “on and after July 1, 1948” was omitted and “laws relating to Federal inspection of meat and meat food products” was changed to “this chapter.”

Sections 97, 97a, 97b, 97c, and 97d of title 21, U. S. C., 1952 ed., made provisions for the payment of the cost of meat inspection service by the establishments subject to inspection, beginning on July 1, 1947. These provisions were superseded, effective July 1, 1948, by section 98 of said title which constitutes this section. The meat inspection fund set up by said section 97 was carried into the general fund of the Treasury by act June 19, 1948, ch. 543, 62 Stat. 507.

Changes were made in phraseology.

SECTION 505—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 78 (Mar. 4, 1907, ch. 2907, 34 Stat. 1262).

At beginning of this section, “firm or corporation” following “person” was omitted as included in “person” as defined in section 1 of title 1, U. S. C., General Provisions.

Other changes were made in phraseology.

SECTION 506—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 87 (Mar. 4, 1907, ch. 2907, 34 Stat. 1264).

Phrase “sections 71–93 of this title” was changed to “this chapter”.

References to “firm or corporation” following “person” were omitted as included in “person” as defined in section 1 of title 1, U. S. C., General Provisions.

SECTION 507—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 79 (Mar. 4, 1907, ch. 2907, 34 Stat. 1263).

References to “sections 71–93 of this title” were changed to “this chapter”. At beginning of section “firm or corporation, or officer, agent, or employee thereof” following “person” was omitted. A firm, or corporation is a “person” as defined in section 1 of title 1, U. S. C., General Provisions. Reference to “officer, agent, or employee

thereof" is unnecessary because of section 2 of title 18, U. S. C., Crimes and Criminal Procedure, which provides that whoever aids, abets, counsels, commands, induces, or procures the commission of an offense against the United States, or causes an act to be done which if directly performed by him would be such an offense, is a principal and punishable as such. See, also, *United States v. Dotterweich*, 1943, 64 S. Ct. 134, 320 U. S. 277, 88 L. Ed. 48, rehearing denied 64 S. Ct. 367, 320 U. S. 815, 88 L. Ed. 492, holding that "person" as used in the provision of the Food, Drug, and Cosmetic Act of 1938 from which section 152 of this revised title is derived, included an officer of a corporation.

SECTION 508—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 88 (Mar. 4, 1907, ch. 2907, 34 Stat. 1264).

Section was changed to conform to the style adopted in the revision of title 18, U. S. C., Crimes and Criminal Procedure, and to omit surplusage.

Word "whoever" was substituted for "Any person, firm, or corporation, or any officer or agent of any such person, firm, or corporation, who" in view of the definition of "whoever" in section 1 of title 1, U. S. C., General Provisions, and for the reasons stated in Revision Note to section 507 of this revised title.

Section 88 of title 21, U. S. C., 1952 ed., designated offenses thereunder as a "misdemeanor", and, as punishment, prescribed maximum fine of \$10,000, and maximum term of imprisonment of two years, whereas, under section 1 of title 18, U. S. C., Crimes and Criminal Procedure, it is provided that, notwithstanding any act of Congress to the contrary, any offense punishable by imprisonment for a term exceeding one year is a felony. In this revised section, the maximum term of imprisonment was reduced to one year, not necessarily to conform with the definition of misdemeanor in such section 1 of title 18, U. S. C., but because this would seem to be more nearly commensurate with the gravity of any offense for which this section prescribes the penalties. However, as revised, the reference to "misdemeanor" is omitted, for this is covered by such section 1 of title 18, U. S. C.

Words "Except as provided in sections 509 and 510 of this title" were inserted at beginning because of the specific penalties provided by those sections for violations thereof.

Section 88 of title 21, U. S. C., 1952 ed., also related to violations of section 80 and 82 of that title, the provisions of which are incorporated in section 565 (d) (e) of this title. Therefore, the provisions of such section 88 have also been carried into section 573 (d) of this title, where they provide penalties for violation of such section 565 (d) (e).

Other changes were made in phraseology.

SECTION 509—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 91, 92 (Mar. 4, 1907, ch. 2907, 34 Stat. 1265; June 29, 1938, ch. 810, 52 Stat. 1235).

Section is from part of section 91 of title 21, U. S. C., 1952 ed., formerly set out as section 92 of said title. The remainder of said section 91 is contained in sections 491 and 501 of this revised title.

Phrase "being a farmer, retail butcher, or retail dealer acting

under the exemptions provided in section 502 of this title" was inserted. Section 91 of title 21, U. S. C., 1952 ed., refers to "any person" without this limitation, but the courts have held that it applies only to those whose products are exempted from inspection under that section. See *Kierstein v. Cudahy Packing Co.*, C. C. A. Pa. 1935, 80 F. 2d 518; *U. S. v. Northwestern Fisheries Co.*, D. C. Wash. 1915, 224 F. 274; *U. S. v. Rohe*, D. C. N. Y. 1914, 218 F. 182.

Section was changed to conform to the style adopted in the revision of title 18, U. S. C., Crimes and Criminal Procedure. Among other changes, "shall be guilty of a misdemeanor" was omitted because misdemeanor is defined in section 1 of title 18, U. S. C., and "on conviction thereof" was omitted as surplusage.

SECTION 510—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 90 (Mar. 4, 1907, ch. 2907, 34 Stat. 1264).

This section was changed to conform to the style adopted in the revision of title 18, U. S. C., Crimes and Criminal Procedure.

"Whoever" in subsection (a) was substituted for "Any person, firm, or corporation, or any agent or employee of any person, firm, or corporation, who" in view of the definition of "whoever" in section 1 of title 1, U. S. C., and for the reasons stated in Revision Note to section 507 of this revised title.

Also, reference to "firm, or corporation, or officers, agents, or employees thereof," which followed "person," in one place in section 90 of title 21, U. S. C., 1952 ed., and reference to "firm, or corporation" which followed "person," in another place in such section, were omitted from subsection (b) as unnecessary and covered by definition of "person" in section 1 of title 1, U. S. C., General Provisions. See, also, Revision Note to section 507 of this title.

In both subsections (a) and (b) "shall be deemed guilty of a felony" was omitted as unnecessary because "felony" is defined in section 1 of title 18, U. S. C. "Upon conviction thereof" was omitted as superfluous since punishment can only be imposed after conviction. Provisions for minimum punishment of \$5,000 and one year in subsection (a) and \$1,000 and one year in subsection (b) were omitted to conform with revised title 18, U. S. C. See statement in Reviser's Note to 18 U. S. C. § 203 that "minimum punishment provisions were omitted because of the court's power, under section 3651 of this title, to suspend sentence whenever the crime or offense is not punishable by death or life imprisonment, and, also, to conform with policy adopted by the codifiers of the 1909 Criminal Code. (See S. Rept. 10, pt. 1, pp. 12, 13, 14, 60th Cong., 1st sess., to accompany S. 2982.)"

The mandatory provisions for both fine and imprisonment were changed to fine or imprisonment, or both, because the court now has this discretion by making use of its power to suspend sentence under section 3651 of title 18, U. S. C.

Other changes were made in phraseology.

SECTION 511—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 96 (July 24, 1919, ch. 26, 41 Stat. 241).

In subsection (a), "firm, or corporation or officer, agent, or employee thereof" following "person," was omitted, and in subsection (b), reference to "firms, corporations and officers, agents and employees thereof" which followed "persons," was omitted, for the reasons stated in Revision Note to section 507 of this revised title.

Other changes were made in phraseology.

SECTION 512—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 94a, 132 (May 23, 1908, ch. 192, 35 Stat. 254).

Section is from section 94a of title 21, U. S. C., 1946 ed., which was formerly set out as section 132 of that title.

Changes were made in phraseology.

SECTION 513—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 94 (June 30, 1914, ch. 131, 38 Stat. 420).

Phrase "sections 71-93 of this title" was changed to "this chapter".

CHAPTER 55—ANIMAL AND POULTRY DISEASE PREVENTION; TRANSPORTATION, IMPORT, AND EXPORT OF ANIMALS

Sec.

- 551. Measures and regulations to prevent introduction or spread of disease.
- 552. Control of diseases; cooperation with States.
- 553. Research laboratories for foot-and-mouth and other diseases.
- 554. Appointment of agents to make recommendations.
- 555. Cooperation with Mexico; foot-and-mouth disease and rinderpest; reports to Congress.
- 556. Cattle grubs, research and eradication.
- 557. International boundary fences.
- 558. Regulation of transportation and exportation generally.
- 559. Quarantine of infected areas.
- 560. Regulations for transportation from quarantined areas.
- 561. Transportation from quarantined areas prohibited; exceptions.
- 562. Transportation of diseased livestock or poultry prohibited.
- 563. Cattle reacting to tuberculin test, transportation of.
- 564. Domestic animals reacting to test for paratuberculosis or brucellosis.
- 565. Regulation and promotion of exports.
- 566. Suspension of importation. *
- 567. Importation of diseased or exposed animals and poultry prohibited.
- 568. Importation prohibited except at quarantine stations.
- 569. Quarantine of imported animals and poultry.
- 570. Inspection and disposition of imported animals and poultry.
- 571. Disease control in District of Columbia.
- 572. Inspection by Department as precluding other inspections and fees.
- 573. Penalties.
- 574. Prosecution of violations; venue.

NOTE

Wherever, in the sections of title 21, U. S. C., 1952 ed., from which the revised sections in this chapter were derived, the term "live poultry" was used, such term, in these revised sections, was changed to "poultry". Unless the term "poultry" is qualified as in the case of "dressed poultry" or "drawn poultry", it is presumed to mean "live poultry". In the case of any outbreak of disease which might be disseminated by poultry other than live birds, the broad provisions of section 551 of this title would apply.

SECTION 551—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 111 (Feb. 2, 1903, ch. 349, § 2, 32 Stat. 792; Feb. 7, 1928, ch. 30, 45 Stat. 59).

A reference to “contagious” and “infectious” diseases was omitted as covered by the general term “communicable disease”.

Changes were made in phraseology.

SECTION 552—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 114, 114a (May 29, 1884, ch. 60, § 3, 23 Stat. 32; May 29, 1884, ch. 60, § 11, as added Sept. 21, 1944, ch. 412, title I, § 101 (a), 58 Stat. 734; Feb. 7, 1928, ch. 30, 45 Stat. 59; Oct. 30, 1951, ch. 637, § 1, 65 Stat. 693; Aug. 8, 1953, ch. 381, 67 Stat. 493, 494.)

Subsections (a) and (b) are from sections 114 and 114a, respectively, of title 21, U. S. C., 1952 ed.

In subsection (a) “control and eradication” was substituted for “suppression and extirpation” to correspond with the more recent acts which use the former term. Phrase “of domestic animals and poultry” was added to first sentence because that was the scope of the 1884 act as amended by the 1928 act. References to “sections 111–114, 115, 117–119, and 130 of this title” and to “said sections” were changed to “this chapter”, in order to allow the Secretary to obtain State cooperation in the enforcement of all the provisions of this chapter. This would seem to be the intent of the present law.

References to foot-and-mouth disease, rinderpest, contagious pleuropneumonia, pleuropneumonia, and “contagious” and “infectious” diseases were omitted as covered by the general term “communicable diseases”.

Other changes were made in phraseology.

SECTION 553—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 113a (May 29, 1884, ch. 60, § 12, as added Apr. 24, 1948, ch. 229, 62 Stat. 198).

References to poultry were inserted to make it clear that this section also applies to this class of livestock.

In last paragraph, “Classification Act of 1949” was substituted for “Classification Act” for the purpose of clarity, the Classification Act of 1923 having been repealed by the Classification Act of 1949 (Act Oct. 28, 1949, ch. 782, 63 Stat. 954; 5 U. S. C. § 1071 et seq.). See section 1106 of such Act (63 Stat. 972).

Changes were made in phraseology.

SECTION 554—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 119 (May 29, 1884, ch. 60, § 2, 23 Stat. 31; Feb. 9, 1889, ch. 122, § 1, 25 Stat. 659; July 14, 1890, ch. 707, 26 Stat. 288; Feb. 7, 1928, ch. 30, 45 Stat. 59).

A reference to poultry was inserted in one place for the purpose of clarity, and a reference to “contagious” and “infectious” diseases was omitted as covered by the general term “communicable diseases”.

Words “suppression and extirpation” were changed to “control and eradication” to correspond with the more recent acts which use

the latter phrase. Reference to "sections 111-114, 115, 117, and 118 of this title" was changed to "this section," since this is the only section referring to the duties of such agents.

Other changes were made in phraseology.

SECTION 555—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 114b, 114c, 114d (Feb. 28, 1947, ch. 8, §§ 1-3, 61 Stat. 7, 8).

Subsections (a), (b), and (c) are from sections 114b, 114c, and 114d, respectively, of title 21, U. S. C., 1952 ed.

Words in section 114c of title 21, U. S. C., 1952 ed., "personal services in the District of Columbia and elsewhere without regard to the limitations contained in section 947 (g) of Title 5, including" were omitted from clause (3) of subsection (b) of this section to conform with act Sept. 23, 1950, ch. 1010, § 7 (b), 64 Stat. 986. That Act repealed those provisions of section 46 of title 5, U. S. C., Executive Departments and Government Officers and Employees, which prohibited employment of personal services in the District of Columbia unless specifically authorized in the appropriation concerned. Further, section 947 of such title 5, of which subsection (g) was referred to in such omitted provision, was repealed by act Sept. 12, 1950, ch. 946, Title III, § 301 (85), 64 Stat. 843.

In subsection (c), "Thirty days after February 28, 1947, and every thirty days thereafter" was changed to "on the last day of each month", for the purpose of clarity.

Other changes were made in phraseology.

SECTION 556—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 114e, 114f (June 16, 1948, ch. 477, 62 Stat. 458).

Section consolidates sections 114e and 114f of title 21, U. S. C., 1952 ed. Provision of said section 114f authorizing appropriations was omitted as unnecessary because of the section in the act enacting this revised title which authorizes appropriations.

Changes were made in phraseology.

SECTION 557—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 131 (May 26, 1910, ch. 256, 36 Stat. 440).

The only change was the insertion of a reference to poultry. This will make the section uniform with a number of other sections in this chapter, and such change would seem to be in the public interest.

SECTION 558—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 120 (May 29, 1884, ch. 60, §§ 4, 5, 23 Stat. 32; Feb. 2, 1903, ch. 349, § 1, 32 Stat. 791; Feb. 7, 1928, ch. 30, 45 Stat. 59).

Phrase "suppress and extirpate" was changed to "control and eradicate" to correspond with more recent acts which use the latter phrase.

References to contagious pleuropneumonia, foot-and-mouth disease, and "contagious" and "infectious" diseases were omitted as covered by the general term "communicable diseases."

Other changes were made in phraseology.

SECTION 559—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 123 (Mar. 3, 1905, ch. 1496, § 1, 33 Stat. 1264; Feb. 7, 1928, ch. 30, 45 Stat. 59).

A reference to a "contagious" and "infectious" disease was omitted as covered by the general term "communicable disease".

Changes were made in phraseology.

SECTION 560—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 125 (Mar. 3, 1905, ch. 1496, § 3, 33 Stat. 1265; Feb. 7, 1928, ch. 30, 45 Stat. 59).

"It shall be the duty of the Secretary of Agriculture, and he is authorized and directed" was changed to "The Secretary of Agriculture shall." Requirement for notice in the manner provided in section 124 of title 21, U. S. C., 1952 ed., was changed to refer to the revised section derived from section 123 of that title, since the reference to said section 124 is obviously erroneous.

Other changes were made in phraseology.

SECTION 561—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 124, 126, 128 (Mar. 3, 1905, ch. 1496, §§ 2, 4, 33 Stat. 1264, 1265; June 30, 1914, ch. 131, 38 Stat. 419; Feb. 7, 1928, ch. 30, 45 Stat. 59).

Section consolidates sections 124, 126 and 128 of title 21, U. S. C., 1946 ed.

Subsection (a) of this revised section, which was derived from sections 124 and 126 of title 21, U. S. C., 1952 ed., has been rearranged and rewritten for greater clarity and brevity. References to "company or corporation" following "person" were omitted as unnecessary in view of the definition of person in section 1 of title 1, U. S. C., General Provisions.

A reference in section 128 of title 21, U. S. C., 1952 ed., to section 118 of title 18 was omitted from subsection (b) of this revised section as unnecessary. Section 111 of revised title 18 which was derived from such former section 118 (repealed in 1948) is broad enough to cover the carriers to which this subsection applies.

Other changes were made in phraseology.

SECTION 562—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 115 (May 29, 1884, ch. 60, § 6, 23 Stat. 32; June 28, 1926, ch. 700, § 1, 44 Stat. 774; Feb. 7, 1928, ch. 30, 45 Stat. 59).

Phrase "steam or sailing or other" preceding "vessel or boat" was omitted as unnecessary. References to "company, or corporation" following "any person" were omitted since they are included in the definition of "person" in section 1 of title 1, U. S. C., General Provisions.

References to “contagious” and “infectious” diseases, and the phrase “and especially the disease known as pleuropneumonia”, were all omitted as covered by the general term “communicable disease”. Other changes were made in phraseology.

SECTION 563—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 116 (May 31, 1920, ch. 217, 41 Stat. 699).

Changes were made in phraseology.

SECTION 564—SECTION UNCHANGED

Based on title 21, U. S. C., 1952 ed., § 114a-1 (May 29, 1884, ch. 60, § 13, as added Oct. 31, 1951, ch. 637, § 2, 65 Stat. 693, 694).

SECTION 565—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 80, 82, 105, 112, 113 (May 29, 1884, ch. 60, §§ 4, 5, 23 Stat. 32; Aug. 30, 1890, ch. 839, § 10, 26 Stat. 417; Feb. 2, 1903, ch. 349, § 1, 32 Stat. 791; Mar. 4, 1907, ch. 2907, 34 Stat. 1263; Feb. 7, 1928, ch. 30, 45 Stat. 59).

Subsections (a), (b), and (c) are from sections 113, 112, and 105, respectively, of title 21, U. S. C., 1952 ed. Other provisions of said section 105 are contained in section 570 of this title.

The references in sections 112 and 113 of title 21 U. S. C., 1952 ed., to pleuropneumonia, and to any “contagious” and “infectious” diseases were omitted from this revised section as covered by the general term “communicable disease”.

In subsection (b), reference to “dividing lines” between the United States and foreign countries was changed to “borders”.

In subsection (c), references to poultry were inserted to make such subsection uniform with the other subsections of this section, and with other sections in this chapter, and because this would seem to be in the public interest.

Subsections (d) and (e) are based on sections 80 and 82, respectively, of title 21, U. S. C., 1952 ed.

Changes were made in phraseology.

SECTION 566—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 101 (Aug. 30, 1890, ch. 839, § 9, 26 Stat. 416).

References to poultry were inserted to make it clear that this class of live stock is included within the scope of the section.

Words “communicable diseases” were substituted for “infectious or contagious diseases” to make the section uniform with other sections in this chapter. This does not change the substance or scope of the section.

Changes were made in phraseology.

SECTION 567—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 104 (Aug. 30, 1890, ch. 839, § 6, 26 Stat. 416; June 28, 1926, ch. 700, § 2, 44 Stat. 775; Feb. 28, 1931, ch. 348, 46 Stat. 1460).

Section is from part of section 104 of title 21, U. S. C., 1952 ed. The remainder of that section, providing penalties, is contained in section 573 of this title.

A reference to poultry was inserted to make the section uniform with other sections in this chapter, and because it would seem to be in the public interest.

Changes were made in phraseology.

SECTION 568—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 103 (Aug. 30, 1890, ch. 839, § 8, 26 Stat. 416).

Section is from the first and last sentences of section 103 of title 21, U. S. C., 1952 ed. The remainder of such section is contained in section 570 of this title.

Phrase "all animals described in sections 101–105 of this title" in first sentence was changed to specify the animals to which it applies.

References to poultry were inserted to make the section uniform with other sections in this chapter, and because it would seem to be in the public interest.

Other changes were made in phraseology.

SECTION 569—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 102 (Aug. 30, 1890, ch. 839, § 7, 26 Stat. 416).

At beginning of second sentence "For this purpose he may have and maintain possession of all lands, buildings, animals, tools, fixtures, and appurtenances in use on August 3, 1890, for the quarantine of neat cattle, and purchase, construct, or rent as may be necessary" was changed to read as set out in text of this section in order to omit executed provisions.

References to poultry were inserted to make the section uniform with other sections in this chapter, and because it would seem to be in the public interest.

Word "neat" which preceded "cattle" was omitted as an obsolete term. The term "neat cattle" was used when various provisions set out in this chapter were originally enacted in 1890. The term "cattle" is broader, and, in later enactments also carried into this chapter, Congress did not modify such term with the word "neat". According to information received from the Department of Agriculture, it is advisable to eliminate the latter word as inapplicable to present conditions.

Other changes were made in phraseology.

SECTION 570—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 103, 105 (Aug. 30, 1890, ch. 839, §§ 8, 10, 26 Stat. 416, 417).

Subsections (a) and (b) are from sections 105 and 103, respectively, of title 21, U. S. C., 1952 ed. The remainder of said section 103, prohibiting importation except at quarantine ports, is contained in section 568 of this title. The other provisions of said section 105, concerning inspection of animals for export, are incorporated in section 565 of this title.

In subsection (a) "animals described in sections 101-104 of this title" was changed to "cattle, sheep, other ruminants, swine, and poultry"; and words "by a suitable officer" following "inspection to be made" were omitted as unnecessary.

In subsection (a), after "Bureau of Animal Industry" the following words were inserted: "or for the use of such other bureau or agency or of any officer, of the Department of Agriculture, to which or to whom the Secretary may delegate the functions heretofore or hereafter exercised by him through the Bureau of Animal Industry". This insertion was made because of 1947 Reorganization Plan No. 1, § 301, effective July 1, 1947, 12 F. R. 4534, 61 Stat. 952, which transferred the functions of the Bureau of Animal Industry to the Secretary of Agriculture, and provided that such functions should be performed by him or, subject to his direction and control, by such officers and agencies of the Department of Agriculture as he might designate.

The reference to poultry were inserted to make the section uniform with other sections in this chapter, and because it would seem to be in the public interest.

Word "communicable" was substituted for "contagious" in two places to make section uniform with other sections in this chapter.

In subsection (b) "animals named in said sections" was changed to "animals and poultry named in subsection (a) of this section".

Other changes were made in phraseology.

SECTION 571—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 130 (May 29, 1884, ch. 60, § 8, 23 Stat. 33; Feb. 7, 1928, ch. 30, 45 Stat. 59).

References to any "contagious" or "infectious" disease were omitted as covered by the general term "communicable disease".

Phrase "and especially the disease known as pleuropneumonia" was likewise omitted as covered by "communicable disease".

Other changes were made in phraseology.

SECTION 572—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 121 (Feb. 2, 1903, ch. 349, § 1, 32 Stat. 791; Feb. 7, 1928, ch. 30, 45 Stat. 59).

In first sentence, "the Secretary of Agriculture, or any inspector or assistant inspector of the Department of Agriculture designated by the Secretary for such purpose" was substituted for "any inspector or assistant inspector of the Bureau of Animal Industry"; and, in second sentence, "Secretary of Agriculture" was substituted for "Bureau of Animal Industry". These changes were made in view of 1947 Reorganization Plan No. 1, § 301, effective July 1, 1947, 12 F. R. 4534, 61 Stat. 952. See Revision Note to section 570 of this title.

Phrase "and into and through" preceding "the District of Columbia" was changed to "or". In last sentence "and poultry" was inserted.

References to Texas or splenetic fever infections, pleuropneumonia, foot-and-mouth disease, and any "infectious" or "contagious" disease, were omitted as covered by the general term "any communicable disease".

Other changes were made in phraseology.

SECTION 573—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 88, 104, 117, 122, 127 (May 29, 1884, ch. 60, § 7, 23 Stat. 32; Aug. 30, 1890, ch. 839, § 6, 26 Stat. 416; Feb. 2, 1903, ch. 349, § 3, 32 Stat. 792; Mar. 3, 1905, ch. 1496, § 6, 33 Stat. 1265; Mar. 4, 1907, ch. 2907, 34 Stat. 1264; June 28, 1926, ch. 700, § 2, 44 Stat. 775; Feb. 7, 1928, ch. 30, 45 Stat. 59; Feb. 28, 1931, ch. 348, 46 Stat. 1460).

Subsections (a), (b), (c), and (e) are from sections 122, 127, 117, and 104, respectively, of title 21, U. S. C., 1952 ed. Other provisions of said section 104 are contained in section 567 of this title.

The style of these provisions has been changed to conform with that adopted in the revision of title 18, U. S. C., Crimes and Criminal Procedure. "Whoever" was substituted for phrases such as "any person, company, or corporation" in view of the definition of "Whoever" in section 1 of title 1, U. S. C., General Provisions.

Phrases in sections 104, 117, 122 and 127 of title 21 U. S. C., 1952 ed., such as "on conviction shall be punished" were omitted as unnecessary since punishment can only follow conviction. Words in such sections "shall be guilty of a misdemeanor" were omitted because misdemeanors are defined in section 1 of title 18, U. S. C. Under that section the offense defined in subsection (e) is a felony. Provisions for fines of not less than \$100 in subsections (a), (b), and (c) were omitted for the reasons stated in Revision Note to section 510 of this revised title.

Subsection (d) is from section 88 of title 21, U. S. C., 1952 ed. That section also related to penalties for violating provisions carried into chapter 53 of this title, and therefore is also set out as section 508 of this title. See Revision Note to such section 508 for explanation of changes made therein, most of such changes having also been made in subsection (d) of this section.

Other changes were made in phraseology.

SECTION 574—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 118 (May 29, 1884, ch. 60, § 9, 23 Stat. 33; Feb. 7, 1928, ch. 30, 45 Stat. 59).

This section was expanded to include all violations of this chapter by substituting "this chapter" for "sections 112-114, 115, 117-119, and 130 of this title".

The term "United States district attorneys" was changed to "United States attorneys" to conform with title 28, U. S. C., Judiciary and Judicial Procedure, enacted into law in 1948. See section 501 et seq. of such title.

Other changes were made in phraseology.

CHAPTER 57—SERUMS AND ANALOGOUS PRODUCTS

Sec.

- 611. Preparation and sale of serum, etc.
- 612. Licensing and inspection of establishments.
- 613. Regulations for preparation and sale.
- 614. Importation regulated and prohibited.
- 615. Permits for and inspection of imports.
- 616. Revocation or suspension of licenses or permits.
- 617. Penalties.

SECTION 611—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 151 (Mar. 4, 1913, ch. 145, 37 Stat. 832).

Words “firm or corporation” were omitted as covered by “person” under the definition of that term in section 1 of title 1, U. S. C., General Provisions.

Other changes were made in arrangement and phraseology.

SECTION 612—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 154, 156, 157 (Mar. 4, 1913, ch. 145, 37 Stat. 832, 833).

Subsection (a) is from part of section 154 of title 21, U. S. C., 1952 ed. Subsection (b) consolidates section 157 with part of section 156 of said title. The remainder of said sections 154 and 156 constitute sections 613 and 616, respectively, of this revised title.

In subsection (b) references to establishments where viruses, serums, toxins, or analogous products are prepared for sale, barter, exchange, or shipment as aforesaid were omitted as covered by references to establishments licensed under this chapter.

Other changes were made in phraseology.

SECTION 613—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 154 (Mar. 4, 1913, ch. 145, 37 Stat. 832).

Section is from part of section 154 of title 21 U. S. C., 1952 ed. The remainder of said section is consolidated in section 612 of this revised title.

Changes were made in phraseology.

SECTION 614—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 152 (Mar. 4, 1913, ch. 145, 37 Stat. 832).

Changes were made in phraseology.

SECTION 615—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 153, 155 (Mar. 4, 1913, ch. 145, 37 Stat. 832, 833).

Subsections (a) and (b) are from sections 155 and 153, respectively, of title 21, U. S. C., 1952 ed.

In subsection (b) of this revised section, the provision of section 153 of title 21, U. S. C., 1946 ed., that the Secretary of Agriculture may “cause the Bureau of Animal Industry to examine and inspect”, etc., was changed to provide that “The Secretary may cause to be examined and inspected”, etc., thus omitting the reference to the Bureau of Animal Industry. This change was made because of 1947 Reorganization Plan No. 1, § 301, effective July 1, 1947, 12 F. R. 4534, 61 Stat. 952. See Revision Note to section 570 of this title.

Changes were made in phraseology.

SECTION 616—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 156 (Mar. 4, 1913, ch. 145, 37 Stat. 833).

* Section is from part of section 156 of title 21, U. S. C., 1952 ed. The remainder of that section is consolidated in section 612 of this title.

Changes were made in phraseology.

SECTION 617—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 158 (Mar. 4, 1913, ch. 145, 37 Stat. 833).

Style of this section was changed to conform with that adopted in the revision of title 18, U. S. C., Crimes and Criminal Procedure.

“Whoever” was substituted for “Any person, firm, or corporation who” in view of the definition of “whoever” in section 1 of title 1, U. S. C. Phrase “shall be fined not more than \$1,000 or imprisoned not more than one year, or both” was substituted for “shall be deemed guilty of a misdemeanor, and shall, upon conviction, be punished by a fine of not exceeding \$1,000 or by imprisonment not exceeding one year, or by both such fine and imprisonment, in the discretion of the court”. Reference to a misdemeanor is unnecessary since that term is defined in section 1 of title 18, U. S. C. Reference to conviction is superfluous since punishment can only be imposed after conviction.

PART III.—NARCOTICS

Chapter	Sec.
91. Administration.....	711
93. Narcotics import and export.....	761
95. Domestic opium poppy production control.....	811

CHAPTER 91—ADMINISTRATION

Sec
711. Administration of Part III; delegation of functions.
712. Departmental cooperation in discharge of international obligations.
713. Cooperation with States in suppression of abuse.
714. Payments for information.

SECTION 711—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 177, 188j (Feb. 9, 1909, ch. 100, § 2, 35 Stat. 614; Jan. 17, 1914, ch. 9, 38 Stat. 275; May 26, 1922, ch. 202, § 1, 42 Stat. 596; June 7, 1924, ch. 352, 43 Stat. 657; Dec. 11, 1942, ch. 720, § 11, 56 Stat. 1048).

Section consolidates section 177 of title 21, U. S. C., 1952 ed., which related to the Narcotic Drugs Import and Export Act, with those parts of subsection (a) of section 188j of such title which imposed the duty of enforcing and administering the Opium Poppy Control Act of 1942 upon the Secretary of the Treasury, and authorized him to delegate such functions to officers and employees of the Treasury Department. For other provisions of such section 188j, see Distribution Table.

The power to delegate functions was not provided for in section 177 of title 21, U. S. C., 1952 ed., referred to above, but such delegation is current practice and is in conformity with 1950 Reorganization Plan No. 26, §§ 1, 2, effective July 31, 1950, 15 F. R. 4935, 64 Stat. 1280,

1281. That Plan transferred all functions of all officers and employees of the Treasury Department, and of all agencies of such Department, to the Secretary of the Treasury, and authorized such Secretary to delegate any of such transferred functions, or any of his other functions, to any officers, agencies and employees within such Department. Therefore, as revised, this section applies to all functions prescribed for the Secretary by this part.

Changes were made in phraseology.

SECTION 712—SECTION UNCHANGED

Based on title 21, U. S. C., 1952 ed., § 197 (June 14, 1930, ch. 488, § 7, 46 Stat. 587).

SECTION 713—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 198 (June 14, 1930, ch. 488, § 8, 46 Stat. 587).

Changes were made in phraseology and arrangement.

SECTION 714—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 199 (July 3, 1930, ch. 829, 46 Stat. 850; 1950 Reorganization Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, 1281).

Changes were made in phraseology.

CHAPTER 93—NARCOTICS IMPORT AND EXPORT

Sec.

761. Definitions.

762. Rules and regulations.

763. Importation; exceptions and restrictions; forfeitures.

764. Import for purpose of transportation, to another country; transfer between vessels.

765. Penalty for unlawful import, receipt, transportation, or sale; subsequent offenses; procedure; evidence; liability of masters and persons in charge.

766. Presumption and burden of proof as to importation of smoking opium.

767. Exportation; exceptions; laws of foreign governments.

768. Penalty for unlawful export.

769. Penalty for having in possession or control on board United States vessel.

770. Penalty for possession, receipt, or concealment of smoking opium; evidence; liability of masters and persons in charge.

771. Share of fine to informer.

772. Short title.

SECTION 761—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 171 (Feb. 9, 1909, ch. 100, § 1, 35 Stat. 614; Jan. 17, 1914, ch. 9, 38 Stat. 275; May 26, 1922, ch. 202, § 1, 42 Stat. 596; June 14, 1930, ch. 488, § 3, 46 Stat. 586; Mar. 8, 1946, ch. 81, § 7, 60 Stat. 39; Aug. 8, 1953, ch. 394, § 8, 67 Stat. 506).

In the revised section, words "unless the context requires a different meaning" were inserted because of the more extended definition given "narcotic drug" in section 769 of this title.

Former subsection (c) of section 171 of title 21, U. S. C., 1952 ed., which defined "board" as meaning the Federal Narcotics Control Board, had already been eliminated from that section because of the abolishment of such board, and the transfer of its powers and func-

tions to the Commissioner of Narcotics, by section 282b of title 5, U. S. C., 1952 ed., Executive Departments and Government Officers and Employees. It is accordingly omitted in this revised section.

Item (c) of the revised section, defining "Secretary" as the Secretary of the Treasury, is new and was inserted to obviate the necessity for referring to such Secretary by his full title in various sections of this chapter.

Changes were made in phraseology and arrangement.

SECTION 762—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 182 (Feb. 9, 1909, ch. 100, § 6, as added Jan. 17, 1914, ch. 9, 38 Stat. 275; May 26, 1922, ch. 202, § 2, 42 Stat. 597; June 14, 1930, ch. 488, § 3, 46 Stat. 586; 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, 1281).

Section is from subsection (c) of section 182 of title 21, U. S. C., 1952 ed.

"Secretary of the Treasury" was changed to "Secretary" in view of the definition of "Secretary" in section 761 of this title.

Changes were made in phraseology.

SECTION 763—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 173, 173a, 188h (Feb. 9, 1909, ch. 100, § 2, 35 Stat. 614; Jan. 17, 1914, ch. 9, 38 Stat. 275; May 26, 1922, ch. 202, § 1, 42 Stat. 596; June 7, 1924, ch. 352, 43 Stat. 657; June 14, 1930, ch. 488, §§ 3, 6, 46 Stat. 586, 587; Dec. 11, 1942, ch. 720, § 9, 56 Stat. 1047; 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, 1281).

Section consolidates sections 173, 173a, and 188h (b) of title 21, U. S. C., 1952 ed., with changes in phraseology and arrangement necessary to effect consolidation.

In paragraph (1) of subsection (a), "scientific" was substituted for "legitimate" as the latter appeared in the phrase "for medical and legitimate uses". According to information furnished by the Department of the Treasury, since the phrase "for medical and legitimate uses" was originally used in the Narcotic Drugs Import and Export Act, the United States has ratified the Narcotics Limitation Convention of 1931 (proclaimed by the President July 10, 1933). Under this Convention (Articles 4 and 6), the United States is obligated to limit our manufacture of narcotics to medical and "scientific" requirements. Therefore, there appears to be no "legitimate" use for narcotics that is not medical or scientific. This was recognized by Congress when it enacted the Opium Poppy Control Act of 1942 (similar provisions of which are incorporated in section 811 et seq. of this revised title), where the standard is that of medical and scientific needs.

In paragraph (2) of subsection (a), words "or any territory under its control or jurisdiction" were inserted after "United States" to clarify the probable intent of Congress.

In paragraph (2) of subsection (c), the reference to sections "514 and 515" of title 19, which was contained in section 173 of title 21, U. S. C., 1952 ed., was changed to sections "1607 and 1608" of title 19, in view of the clause "or the provisions of law hereafter enacted which are amendatory of, or in substitution for, such sections", which

immediately followed such reference. Such sections 514 and 515 of title 19 were repealed by Act June 17, 1930, ch. 497, title IV, § 651 (a) (1), 46 Stat. 762. The same Act enacted such sections 1607 and 1608 of such title, into which the provisions of such former sections 514 and 515 were carried.

Subsection (b) of section 188h of title 21, U. S. C., 1952 ed., which was a part of the Opium Poppy Control Act of 1942, was transferred to this chapter and incorporated in paragraph (1) of subsection (a) of this revised section, because it relates more particularly to imports of crude opium, specifically empowering the Secretary of the Treasury to limit or entirely prohibit such imports to the extent that he finds that the medical and scientific needs of the United States for opium or opium products are being, or can be, supplied by opium poppies produced in accordance with chapter 95 of this title. However, the further provision of such section 188h (b) that nothing in "sections 188-188n of this title" (the Opium Poppy Control Act of 1942, which, for the most part, is incorporated in chapter 95 of this revised title) shall be construed to repeal the provisions of "sections 171-185 of this title" (the Narcotic Drugs Import and Export Act, which, for the most part, is incorporated in this chapter), as amended, was omitted as unnecessary in a revision. The provisions of both Acts have been carried into this revised title, and, upon their simultaneous reenactment herein, will stand in *pari materia* and must, or should be, construed together.

All references to the "Secretary of the Treasury" were changed to "Secretary" in view of the definition of "Secretary" in section 761 of this title.

For remainder of section 188h of title 21, U. S. C., 1952 ed., see Distribution Table.

SECTION 764—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 180 (Feb. 9, 1909, ch. 100, § 5; Jan. 17, 1914, ch. 9, 38 Stat. 275; May 26, 1922, ch. 202, § 2, 42 Stat. 597; June 14, 1930, ch. 488, § 3, 46 Stat. 586; 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, 1281).

The only change was the substitution of "Secretary" for "Secretary of the Treasury" in view of the definition of "Secretary" in section 761 of this title.

SECTION 765—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 174, 176 (Feb. 9, 1909, ch. 100, § 2, 35 Stat. 614; Jan. 17, 1914, ch. 9, 38 Stat. 275; May 26, 1922, ch. 202, § 1, 42 Stat. 596; June 7, 1924, ch. 352, 43 Stat. 657; Nov. 2, 1951, ch. 666, §§ 1, 5 (1), 65 Stat. 767, 769).

Section consolidates sections 174 and 176 of title 21, U. S. C., 1952 ed.

It has been the policy, throughout the revision of this title, to rephrase mandatory punishment provisions of fine *and* imprisonment in alternative provisions of fine *or* imprisonment, *or* both, since this policy was followed by Congress in the revision of title 18, U. S. C., Crimes and Criminal Procedure, which became law in 1948, and because, as a general rule, the court has power under section 3651

of that title to suspend sentence. It was also the policy in the revision of title 18, U. S. C., to omit provisions for minimum fines and terms of imprisonment, because of the court's power under section 3651 of that title to suspend sentence (whenever the offense is not punishable by death or life imprisonment), and because of the same policy followed by the codifiers of the 1909 Criminal Code (see S. Rept. 10, pt. 1, pp. 12, 13, 14, 60th Cong., 1st Sess., to accompany S. 2982). However, section 174 of title 21, U. S. C., 1952 ed., which has been carried into subsection (a) of this revised section, was amended as late as November 2, 1951 (ch. 666, § 1), which amendment, among other changes, retained and inserted mandatory punishment provisions for fine *and* imprisonment, and inserted provisions for minimum fines and terms of imprisonment. Further, the amendment inserted provisions that for a second or subsequent offense, the imposition or execution of sentence should not be suspended and probation should not be granted. In view of such amendment and provisions, it was deemed advisable to leave the punishment provisions in subsection (a) of this section unchanged.

Changes were made in phraseology.

SECTION 766—SECTION UNCHANGED

Based on title 21, U. S. C., 1952 ed., § 181 (Feb. 9, 1909, ch. 100, § 3; Jan. 17, 1914, ch. 9, 38 Stat. 275).

SECTION 767—SECTION REVISED

Based on title 21, U. S. C., 1946 ed., § 182 (Feb. 9, 1909, ch. 100, § 6; Jan. 17, 1914, ch. 9, 38 Stat. 275; May 26, 1922, ch. 202, § 2, 42 Stat. 597; June 14, 1930, ch. 488, § 3, 46 Stat. 586; 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, 1281).

Section constitutes subsections (a) and (b) of section 182 of title 21, U. S. C., 1952 ed. For remainder of such section 182, see Distribution Table.

In paragraph (3) of subsection (a), "scientific" was substituted for "legitimate" as the latter appeared in the two identical phrases "for medical and legitimate uses". See Revision Note to section 763 of this title.

Words in subsection (a) of section 182 of title 21, U. S. C., 1952 ed., "or from countries in which the United States exercises extraterritorial jurisdiction," were omitted. The United States formerly exercised extraterritorial jurisdiction in China, but this right was relinquished by virtue of the Treaty of January 11, 1943, 57 Stat. 767, with that country.

All references to the "Secretary of the Treasury" were changed to "Secretary" in view of the definition of "Secretary" in section 761 of this title.

In the definition of "person," "individual" was substituted for "natural person or persons" to harmonize with other sections of this title. Reference to the plural is not necessary in view of section 1 of title 1, U. S. C., General Provisions, which provides that, in determining the meaning of any act of Congress, unless the context indicates otherwise, words importing the singular include and apply to several persons, parties, or things.

Changes were made in phraseology and arrangement.

SECTION 768—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 183 (Feb. 9, 1909, ch. 100, § 7, as added Jan. 17, 1914, ch. 9, 38 Stat. 277).

Section is based on the first sentence of section 183 of title 21, U. S. C., 1952 ed. For other provisions of such section 183, see Distribution Table.

The reference in section 183 of title 21, U. S. C., 1952 ed., to persons causing unlawful export of narcotic drugs was omitted as unnecessary in view of definition of "principal" contained in section 2 of title 18, U. S. C., Crimes and Criminal Procedure.

The provision in section 183 of title 21, U. S. C., 1952 ed., for minimum fine of \$50 was omitted because of the court's power under section 3651 of title 18, U. S. C., Crimes and Criminal Procedure, to suspend sentence. The omission conforms with the policy adopted by Congress in the revision of such title 18, which became law in 1948, and also with the policy adopted by the codifiers of the prior Criminal Code of 1909. (See S. Rept. 10, pt. 1, pp. 12, 13, 14, 60th Cong., to accompany S. 2982.)

Changes were made in phraseology.

SECTION 769—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 184a (July 11, 1941, ch. 289, § 1, 55 Stat. 584).

Changes were made in phraseology.

SECTION 770—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 178, 179 (Feb. 9, 1909, ch. 100, § 4, as added Jan. 17, 1914, ch. 9, 38 Stat. 275).

Section consolidates sections 178 and 179 of title 21, U. S. C., 1952 ed.

Changes were made in phraseology.

SECTION 771—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 183 (Feb. 9, 1909, ch. 100, § 7, as added Jan. 17, 1914, ch. 9, 38 Stat. 277).

Section constitutes the second and third sentences of section 183 of title 21, U. S. C., 1952 ed., with changes in phraseology. For remainder of such section 183, see Distribution Table.

As revised, the section is extended to cover fines paid for violating certain provisions of law which were not a part of the Narcotic Drugs Import and Export Act, either as such Act was originally enacted, or as later amended. For example, see section 769 of this title, which was derived from section 184a of title 21, U. S. C., 1952 ed. Such section 184a was not a part of said Act.

SECTION 772—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 185 (Feb. 9, 1909, ch. 100, § 9, as added May 26, 1922, ch. 202, § 4, 42 Stat. 598).

By using the words "this chapter," this section extends the coverage of the short title to certain provisions which were not a part of the original Act (specifically, sections 763 (a) (2), 763 (b) (part), and 769 of this title); and it excludes from such coverage that part of the original Act (part of section 177 of title 13, U. S. C., 1952 ed.) which was carried into section 711 of this title, and which relates merely to administration of this entire part, as set out in such section 711.

CHAPTER 95—DOMESTIC OPIUM POPPY PRODUCTION CONTROL

Sec.

811. Declaration of policy; assistance from Federal agencies.

812. Definitions.

813. Rules and regulations.

814. Licenses; qualifications; limitations; revocation and renewal.

815. Distribution by Federal Government; personnel of Treasury Department excepted from prohibitions.

816. Production, purchase, manufacture, sale, or transportation by unlicensed persons.

817. Seizure and forfeiture of opium poppies illegally possessed; disposition.

818. Penalties.

819. Pleading, presumptions, and burden of proof.

820. Application to, and of, other laws.

821. Territorial application.

822. Short title.

SECTION 811—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 188, 188j (Dec. 11, 1942, ch. 720, §§ 1, 11, 56 Stat. 1045, 1048).

Section consolidates section 188 of title 21, U. S. C., 1952 ed., with subsection (b) of section 188j of such title. For remainder of such section 188j, see Distribution Table.

In par. (1) of subsection (a), words "as amended by the Protocol signed at Lake Success, New York, on December 11, 1946" were inserted, because the 1931 Treaty, referred to therein, was so amended.

The reference in subsection (b) of section 188j of title 21, U. S. C., 1952 ed., "and particularly the Bureau of Plant Industry in the Department of Agriculture," was omitted from subsection (b) of this revised section because the functions of this Bureau, which was renamed the Bureau of Plant Industry, Soils, and Agricultural Engineering by departmental action under Executive Order No. 9069, February 23, 1942, 7 F. R. 1409, set out in note to section 601 of appendix to title 50, U. S. C., 1952 ed., War and National Defense, were transferred to the Secretary of Agriculture by 1947 Reorganization Plan No. 1, § 301, effective July 1, 1947, 12 F. R. 4534, 61 Stat. 952, to be performed by him "or, subject to his direction and control, by such officers and agencies of the Department of Agriculture as he may designate." However, subsection (b), even without such specific reference, is sufficiently broad to cover that Department or any agencies or bureaus therein.

Changes were made in phraseology.

SECTION 812—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 188a (Dec. 11, 1942, ch. 720, § 2, 56 Stat. 1045).

Definition of "Secretary" was inserted to eliminate the necessity for frequently referring throughout the chapter to the Secretary of the Treasury by his full title.

Changes were made in phraseology and arrangement.

SECTION 813—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 188j (Dec. 11, 1942, ch. 720, § 11, 56 Stat. 1048).

Section constitutes part of subsection (a) of section 188j of title 21, U. S. C., 1952 ed. For remainder of such section 188j, see Distribution Table.

Changes were made in phraseology.

SECTION 814—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 188e (Dec. 11, 1942, ch. 720, § 6, 56 Stat. 1046).

Changes were made in phraseology and arrangement.

SECTION 815—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 188i (Dec. 11, 1942, ch. 720, § 10, 56 Stat. 1048).

Changes were made in phraseology.

SECTION 816—SECTION REVISED

Based on title 21 U. S. C., 1952 ed., §§ 188b, 188c, 188d, 188f (Dec. 11, 1942, ch. 720, §§ 3, 4, 5, 7, 56 Stat. 1045-1047).

Section consolidates sections 188b, 188c, 188d and 188f of title 21, U. S. C., 1952 ed., the purpose being to consolidate into one general section all of the prohibitions with respect to the unlicensed production, purchase, manufacture, sale, transportation, etc. of opium poppies, opium poppy seed, opium, or opium products, as the case may be.

Surplusage was omitted and changes were made in phraseology.

SECTION 817—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 188g (Dec. 11, 1942, ch. 720, § 8, 56 Stat. 1047).

Changes were made in phraseology.

SECTION 818—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 188l (Dec. 11, 1942, ch. 720, § 13, 56 Stat. 1048).

Provisions of subsection (a) of section 188l of title 21, U. S. C., 1952 ed., defining violation of this chapter as a felony, and provision of subsection (b) of such section, defining the act of making or preparing false statements in connection with an application for a license as a misdemeanor, were omitted as unnecessary and covered by the general provisions of section 1 of title 18, U. S. C., Crimes and Criminal Procedure, classifying and defining crimes.

Words "upon conviction thereof" contained in both subsections of section 188l of title 21, U. S. C., 1952 ed., were omitted as surplusage, as there can be no punishment without a conviction, and words "in the discretion of the court", contained in subsection (a) of such section, were likewise omitted as surplusage.

The section was rewritten to adopt, partially, the style adopted by Congress in the revision of title 18, U. S. C., Crimes and Criminal Procedure, which became law in 1948.

SECTION 819—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 188m (Dec. 11, 1942, ch. 720, § 14, 56 Stat. 1048).

The only change was the re-translation of references so as to refer to "this chapter" and "section 814 of this title".

SECTION 820—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 188h (Dec. 11, 1942, ch. 720, § 9, 56 Stat. 1047).

Section constitutes subsection (a) of section 188h of title 21, U. S. C., 1952 ed. For remainder of such section 188h, see Distribution Table.

Specific references to parts of the Internal Revenue Code were omitted and a general reference to such Code was substituted therefor, as sufficient.

Changes were made in phraseology.

SECTION 821—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 188k (Dec. 11, 1942, ch. 720, § 12, 56 Stat. 1048).

The only change was the re-translation of the reference "sections 188-188n of this title" to "this chapter".

SECTION 822—NEW SECTION

Section is new in the sense that Act Dec. 11, 1942, ch. 720, § 17, 56 Stat. 1049, on which it is based, was not classified to the United States Code except as a note under section 188 of title 21, U. S. C., 1952 ed.

The additional designation "of 1942" has been dropped from the short title as herein set out because of the repeal, by the bill enacting this revised title, of the 1942 Act, and the incorporation of the provisions thereof in this chapter.

TABLE 1.—STATUTES AT LARGE

Showing where the Statutes at Large will be found in revised title 21

Date	Chapter	Title	Section	Volume	Page	Title 21—Section
1884—May 29	60		2	23	31	554
May 29	60		3	23	32	552
May 29	60		4, 5	23	32	558, 565
May 29	60		6	23	32	562
May 29	60		7	23	32	573
May 29	60		8	23	33	571
May 29	60		9	23	33	574
May 29	60		11			552
May 29	60		12			553
May 29	60		13			564
1889—Feb 9	122		1	25	659	554
1890—July 14	707			26	288	554
Aug. 30	839		4	26	415	113
Aug. 30	839		6	26	416	567, 573
Aug. 30	839		7	26	416	569
Aug. 30	839		8	26	416	568, 570
Aug. 30	839		9	26	416	566
Aug. 30	839		10	26	417	565, 570
1897—Mar. 2	358		1	29	604	261
Mar. 2	358		2	29	604	262
Mar. 2	358		2	29	605	3
Mar. 2	358		3	29	605	262
Mar. 2	358		4	29	605	263
Mar. 2	358		5	29	605	264
Mar. 2	358		6	29	606	4, 267
Mar. 2	358		7	29	606	265, 266
Mar. 2	358		8	29	606	268
Mar. 2	358		9	29	606	269
Mar. 2	358		10	29	607	270
1902—May 9	784		1	32	193	60
1903—Feb. 2	349		1	32	791	558, 565, 572
Feb. 2	349		2	32	792	551
Feb. 2	349		3	32	792	573
1905—Mar. 3	1496		1	33	1264	559
Mar. 3	1496		2	33	1264	561
Mar. 3	1496		3	33	1265	560
Mar. 3	1496		4	33	1265	561
Mar. 3	1496		6	33	1265	573
1906—June 30	3915		10A			57, 151
1907—Mar. 4	2907			34	1260	492, 493
Mar. 4	2907			34	1261	493, 494, 497
Mar. 4	2907			34	1262	495-497, 505
Mar. 4	2907			34	1263	498
Mar. 4	2907			34	1263	499, 507, 565
Mar. 4	2907			34	1264	500, 502, 503, 506
						508, 510, 573
Mar. 4	2907			34	1265	491, 501, 509
1908—May 16	170			35	163	261
May 23	192			35	254	512
1909—Feb. 9	100		1	35	614	761
Feb. 9	100		2	35	614	763, 766, 711
Feb. 9	100		3			766
Feb. 9	100		4			770
Feb. 9	100		5			764
Feb. 9	100		6			762, 767
Feb. 9	100		7			768, 771
Feb. 9	100		9			773
1910—May 26	256			36	440	557
1913—Mar. 4	145			37	832	611-615
Mar. 4	145			37	833	612, 615-617
1914—June 30	131			38	419	561
June 30	131			38	420	513
Jan. 17	9			38	275	711, 761-763, 764-767, 770
Jan. 17	9			38	277	768, 771
1919—July 24	26			41	241	511
July 24	26			41	271	41
1920—May 31	217			41	699	563
May 31	217			41	712	3, 4
May 31	217			41	712	261-263, 265-270
May 31	217			41	713	4, 265-267

TABLE 1.—STATUTES AT LARGE—Continued

Showing where the Statutes at Large will be found in revised title 21—Continued

Date	Chapter	Title	Section	Volume	Page	Title 21—Section
1922—May 26.....	202		1.....	42	596	711, 761, 763, 765
May 26.....	202		2.....	42	597	762, 764, 767
May 26.....	252		4.....	42	593	773
1923—Mar. 4.....	262		1.....	42	1486	221
Mar. 4.....	262		2.....	42	1487	222, 224
Mar. 4.....	262		3.....	42	1487	224
Mar. 4.....	262		4.....			223
Mar. 4.....	268			42	1500	41
1924—June 7.....	352			43	657	711, 763, 765
1926—June 28.....	700		1.....	44	774	562
June 28.....	700		2.....	44	775	567, 573
1927—Feb. 15.....	155		1.....	44	1101	202
Feb. 15.....	155		2.....	44	1101	203
Feb. 15.....	155		3.....	44	1102	204
Feb. 15.....	155		4, 5.....	44	1103	205
Feb. 15.....	155		8.....	44	1103	206
Feb. 15.....	155		9.....	44	1103	201
Mar. 4.....	489		1.....	44	1406	320
Mar. 4.....	489		2.....	44	1406	311, 319
Mar. 4.....	489		3.....	44	1407	312
Mar. 4.....	489		4.....	44	1408	316
Mar. 4.....	489		5.....	44	1408	313
Mar. 4.....	489		6.....	44	1409	314
Mar. 4.....	489		7.....	44	1409	317
Mar. 4.....	489		8.....	44	1409	318
Mar. 4.....	489		9.....	44	1409	315
Mar. 4.....	489		12.....	44	1410	319
1928—Feb. 7.....	30			45	59	551, 552, 554, 558- 562, 565, 571-574
1930—May 27.....	341			46	392	1
May 27.....	341			46	422	1
June 14.....	488		3.....	46	586	761-763, 764, 767
June 14.....	488		6.....	46	587	763
June 14.....	488		7.....	46	587	712
June 14.....	488		8.....	46	587	713
July 3.....	829			46	850	714
1931—Feb. 28.....	343			46	1460	567, 573
1934—June 22.....	712			48	1204	57, 151
1935—Aug. 27.....	739			49	871	57, 151
Aug. 27.....	743			49	885	222
1938—June 25.....	675		1.....	52	1040	44
June 25.....	675		201.....	52	1041	41, 42, 43
June 25.....	675		301.....	52	1042	151
June 25.....	675		302.....	52	1043	153
June 25.....	675		303.....	52	1043	152
June 25.....	675		304.....	52	1044	154
June 25.....	675		305.....	52	1045	155
June 25.....	675		306.....	52	1045	156
June 25.....	675		307.....	52	1046	157
June 25.....	675		401.....	52	1046	51
June 25.....	675		402.....	52	1046	52
June 25.....	675		403.....	52	1047	53
June 25.....	675		404.....	52	1048	56
June 25.....	675		405.....	52	1049	54
June 25.....	675		406.....	52	1049	55
June 25.....	675		501.....	52	1049	71
June 25.....	675		502.....	52	1050	72
June 25.....	675		503.....	52	1051	73
June 25.....	675		504.....	52	1052	74
June 25.....	675		505.....	52	1052	75
June 25.....	675		506.....			76
June 25.....	675		507.....			77
June 25.....	675		601.....	52	1054	91
June 25.....	675		602.....	52	1054	92
June 25.....	675		603.....	52	1054	93
June 25.....	675		604.....	52	1055	94
June 25.....	675		701.....	52	1055	131
June 25.....	675		702.....	52	1056	132
June 25.....	675		702A.....	52	1043	151
June 25.....	675		702A.....	52	1059	57
June 25.....	675		703.....	52	1057	133
June 25.....	675		704.....	52	1057	134
June 25.....	675		705.....	52	1057	135
June 25.....	675		706.....	52	1058	136
June 25.....	675		801.....	52	1053	111, 112
June 25.....	675		902 (b).....	52	1, 059	61
June 29.....	810			52	1, 235	491, 501, 509

TABLE 1.—STATUTES AT LARGE—Continued

Showing where the Statutes at Large will be found in revised title 21—Continued

Date	Chapter	Title	Section	Volume	Page	Title 21—Section
1939—June 23.....	242		3.....	53	854	72
1940—June 27.....	437	I		54	632	263
1941—July 1.....	269	II		55	478	263
July 11.....	289		1.....	55	584	769
Dec. 22.....	613		1.....	55	851	151
Dec. 22.....	613		2.....	55	851	72
Dec. 22.....	613		3.....	55	851	76
1942—Dec. 11.....	720		1.....	56	1045	811
Dec. 11.....	720		2.....	56	1045	812
Dec. 11.....	720		3, 4, 5.....	56	1045-1047	816
Dec. 11.....	720		6.....	56	1046	814
Dec. 11.....	720		7.....	56	1047	816
Dec. 11.....	720		8.....	56	1047	817
Dec. 11.....	720		9.....	56	1047	763, 820
Dec. 11.....	720		10.....	56	1048	815
Dec. 11.....	720		11.....	56	1048	711, 811, 813
Dec. 11.....	720		12.....	56	1048	821
Dec. 11.....	720		13.....	56	1048	818
Dec. 11.....	720		14.....	56	1048	819
Dec. 11.....	720		17.....	56	1049	822
1943—July 12.....	221			57	500	3
July 12.....	221	II	1.....	57	500	57, 151
July 12.....	221	II	201.....	57	500	137
1944—Mar. 2.....	77			58	108	41
Sept. 21.....	412	1	101 (a).....	58	734	552
1945—July 6.....	281		1.....	59	463	151
July 6.....	281		2.....	59	463	72
July 6.....	281		3.....	59	463	77
1946—Mar. 8.....	81		7.....	60	39	761
June 22.....	445		1.....	60	278	557
1947—Feb. 28.....	8		1-3.....	61	7, 8	555
Mar. 10.....	16		1.....	61	11	151
Mar. 10.....	16		2.....	61	11	72
Mar. 10.....	16		3.....	61	12	77
July 30.....	356	I	1.....	61	531	504
1948—Apr. 24.....	229			62	198	553
June 5.....	423			62	344	504
June 16.....	477			62	458	556
June 24.....	613		1.....	62	582	151
June 24.....	613		2.....	62	582	154
1949—July 13.....	305		1.....	63	409	72
July 13.....	305		2.....	63	409	77
Oct. 18.....	696			63	882, 883	111
1950—Mar. 16.....	61		3 (a).....	64	20	58
Mar. 16.....	61		3 (b).....	64	20	151
Mar. 16.....	61		3 (c).....	64	20, 21	59
Mar. 16.....	61		3 (d).....	64	21	52
Mar. 16.....	61		6.....	64	22	60
1951—Oct. 26.....	578		1.....	65	648	73
Oct. 26.....	578		2.....	65	649	152
Oct. 30.....	637		1.....	65	693	552
Oct. 30.....	637		2.....	65	693	564
Nov. 2.....	666		1.....	65	767	765
1953—Aug. 5.....	334		1.....	67	389	72
Aug. 5.....	334		2.....	67	389	77
Aug. 7.....	350		1.....	67	476, 477	134
Aug. 7.....	350		2.....	67	477	151
Aug. 7.....	350		3.....	67	477	154
Aug. 8.....	381			67	493, 494	552
Aug. 8.....	394		8.....	67	506	761

TABLE 1.—STATUTES AT LARGE—Continued

Showing where the Statutes at Large will be found in revised title 21—Continued

Date	Chapter	Title	Section	Volume	Page	Title 21—Section
1954—Apr. 15-----	143		1-----	68	54	51
Apr. 15-----	143		2-----	68	55	131
			1940 Reorganiza- tion Plan No. 4, §§ 12, 13, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237.			1. 2
			1940 Reorganiza- tion Plan No. 4, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237.			3, 4, 41, 42, 43, 51-57, 71
			1940 Reorganiza- tion Plan No. 4, §§ 12, 13, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237			72
			1940 Reorganiza- tion Plan No. 4, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237.			73-75, 92-94, 111, 112, 131-135, 151, 152, 154-156, 202, 204, 223, 261-263, 267, 270, 313, 315, 318
			1950 Reorganiza- tion Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, 1281.			714, 762, 763, 764, 767
			1953 Reorganiza- tion Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632.			1-4, 41-43, 51-57, 71-77, 92-94, 111, 112, 131-135, 137, 151, 152, 154-156, 202, 204, 223, 261- 263, 267, 270, 313, 315, 318

TABLE 2.—UNITED STATES CODE

Showing where sections of the United States Code, 1952 edition, will be found in revised title 21, U. S. C.

United States Code	Title 21	United States Code	Title 21	United States Code	Title 21
Title 15:		Title 21—Con.		Title 21—Con.	
401.....	320	102.....	569	188.....	811
402.....	311, 319	103.....	568, 570	188a.....	812
403.....	312	104.....	567, 573	188b.....	816
404.....	316	105.....	565, 570	188c.....	816
405.....	313	111.....	551	188d.....	816
406.....	314	112.....	565	188e.....	814
407.....	317	113.....	565	188f.....	816
408.....	318	113a.....	553	188g.....	817
409.....	315	114.....	552	188h.....	763, 820
411.....	319	114a.....	552	188i.....	815
Title 21:		114a-1.....	564	188j.....	711, 811, 813
6.....	41	114b.....	555	188k.....	821
14a.....	57	114c.....	555	188l.....	818
18.....	113	114d.....	555	188m.....	819
25.....	60	114e.....	556	197.....	712
41.....	261	114f.....	556	198.....	713
42.....	3, 262	115.....	562	199.....	714
43.....	262	116.....	563	301.....	44
44.....	263	117.....	573	321.....	41, 42, 43
45.....	264	118.....	574	321a.....	41
46.....	265, 266	119.....	554	321b.....	41
46a.....	263	120.....	558	321c.....	41
47.....	4, 267	121.....	572	331.....	151
48.....	268	122.....	573	332.....	153
49.....	269	123.....	559	333.....	152
50.....	270	124.....	561	334.....	154
61.....	221	125.....	560	335.....	155
62.....	222, 224	126.....	561	336.....	156
63.....	224	127.....	573	337.....	157
64.....	223	128.....	561	341.....	51
71.....	492	130.....	571	342.....	52
72.....	493	131.....	557	343.....	53
73.....	493	132.....	512	344.....	56
74.....	494, 497	141.....	202	345.....	54
75.....	495	142.....	203	346.....	55
76.....	496	143.....	204	347.....	59
77.....	497	144.....	205	347a.....	58
78.....	505	145.....	205	347b.....	60
79.....	507	148.....	206	351.....	71
80.....	565	149.....	201	352.....	72
81.....	499	151.....	611	353.....	73
82.....	565	152.....	614	354.....	74
83.....	498	153.....	615	355.....	75
84.....	499	154.....	612, 613	356.....	76
85.....	498	155.....	615	357.....	77
86.....	499	156.....	612, 616	361.....	91
87.....	506	157.....	612	362.....	92
88.....	508, 573	158.....	617	363.....	93
89.....	500, 502, 503	171.....	761	364.....	94
90.....	510	173.....	763	371.....	131
91.....	491, 501, 509	173a.....	763	372.....	132
92.....	509	174.....	765	372a.....	57, 151
94.....	513	176.....	765	373.....	133
94a.....	512	177.....	711	374.....	134
96.....	511	178.....	770	375.....	135
97.....	504	179.....	770	376.....	136
97a.....	504	180.....	764	377.....	137
97b.....	504	181.....	767	381 (a, b, c).....	111
97c.....	504	182.....	762, 767	381 (d).....	112
97d.....	504	183.....	768, 771	392.....	61
98.....	504	184a.....	769		
101.....	566	185.....	772		

TABLE 3.—OMITTED LAWS

Showing laws omitted from revised title 21 U. S. C., and included in the schedule of repeals

[The citations in the first two columns give the titles and sections of the United States Code, 1952 ed. The citations in the third column indicate the corresponding Statutes at Large, or parts thereof. The reasons for omission and repeal are given in the fourth column]

U. S. C., 1952 ed.		Statutes at Large	Reasons for omission and repeal
Title	Section		
7	391 note	May 29, 1884, ch. 60, § 10, 23 Stat. 33.	Executed and obsolete.
15	410	Mar. 4, 1907, ch. 489, § 10, 44 Stat. 1410.	Covered by a section of the enacting bill providing for separability of provisions.
21	1 note	Aug. 30, 1890, ch. 839, §§ 2, 3, 26 Stat. 415.	Superseded by the Food and Drugs Act of 1906 (21 U. S. C., 1952 ed., § 1 et seq.), which in turn, was superseded for the most part by the Federal Food, Drugs, and Cosmetic Act of 1938 (21 U. S. C., 1952 ed., § 301 et seq.), incorporated in various sections of this revision.
21	16, 17	July 1, 1902, ch. 1357, §§ 1, 2, 32 Stat. 632.	Superseded by former section 9 of T. 21 U. S. C., which was covered by 21 U. S. C., 1946 ed., § 343 (a), which is incorporated in section 53 of this revision.
21	24	Mar. 4, 1915, ch. 144 38 Stat. 1102.	Obsolete, since the authority for the inspections to which this section related was omitted from the appropriation act of July 12, 1943, ch. 221, 57 Stat. 494 and subsequent acts.
21	26	Jan. 18, 1927, ch. 39, 44 Stat. 984; May 16, 1928, ch. 572, 45 Stat. 548; Feb. 16, 1929, ch. 227, 45 Stat. 1198.	Superseded by 5 U. S. C., 1952 ed., § 571.
21	71 note	Aug. 30, 1890, ch. 839, § 1, 26 Stat. 414.	Superseded by the Meat Inspection Act of 1907 (21 U. S. C., § 71 et seq.), which is incorporated in Chapter 53 of this revision.
21	95	June 30, 1906, ch. 3913, 34 Stat. 679; June 26, 1934, ch. 756, § 2, 48 Stat. 1225.	Unnecessary in revised Title 21. A section of the bill enacting this title authorizes appropriations for the entire title.
21	106, 107	Aug. 10, 1917, ch. 52, § 9, 40 Stat. 275; Nov. 21, 1918, ch. 212, § 3, 40 Stat. 1048.	Expired when the national emergency resulting from World War I passed.
21	112 note	May 29, 1884, ch. 60, § 10, 23 Stat. 33.	Executed and obsolete.
21	146	Feb. 15, 1927, ch. 155, § 6, 44 Stat. 1103.	Unnecessary in revised Title 21. A section of the bill enacting this title authorizes appropriations for the entire title.
21	147	Feb. 15, 1927, ch. 155, § 7, 44 Stat. 1103.	Section merely repealed laws inconsistent with sections 141-149 of T. 21, U. S. C., 1946 ed., which sections are themselves repealed by this revision.
21	172	Feb. 9, 1909, ch. 100, § 2, 35 Stat. 614; Jan. 17, 1914, ch. 9, 38 Stat. 275; May 26, 1922, ch. 202, § 1, 42 Stat. 596; June 7, 1924, ch. 352, 43 Stat. 657.	Section established the Federal Narcotics Control Board which was abolished by section 282h of Title 5, U. S. C., 1952 ed.
21	184	Feb. 9, 1909, ch. 100, § 8; Jan. 17, 1914, ch. 9, 38 Stat. 277; May 26, 1922, ch. 202, § 3, 42 Stat. 598.	Obsolete and superseded by sec. 1584 of title 19, U. S. C., 1952 ed. (sec. 584 of the Tariff Act of 1930).
21	188n	Dec. 11, 1942, ch. 720, § 15, 56 Stat. 1049.	Not necessary or appropriate in a revision. A separate section in the bill to enact this revision contains separability provisions with respect to the entire title.
21	191, 192	Feb. 23, 1887, ch. 210, §§ 1, 2, 24 Stat. 409.	Obsolete and superseded by 21 U. S. C., 1952 ed., §§ 173, 174, which are incorporated in sections 763 and 766 of this revision.
21	193	Feb. 23, 1887, ch. 210, § 3, 24 Stat. 409; June 25, 1948, ch. 646, § 5, 62 Stat. 986.	Obsolete because in the Treaty of Jan. 11, 1943, 57 Stat. 767, the United States relinquished extraterritorial rights in China.
21	201-215	Mar. 3, 1915, ch. 74, §§ 1-13, 38 Stat. 817-822.	Obsolete since the Treaty of Jan. 11, 1943, 57 Stat. 767, under which the United States relinquished extraterritorial rights in China.
21	333 note, 353 note	Oct. 26, 1951, ch. 578, § 3, 65 Stat. 649.	Executed and obsolete.
21	342 note, 343 note, 351 note, 352 note, 361 note, 362 note	June 23, 1939, ch. 242, §§ 1, 2, 53 Stat. 853, 854.	Executed and no longer necessary in view of the provisions of this revised title.
21	376 note	May 2, 1939, ch. 107, title I, § 1 (part), 53 Stat. 631.	Only the words "which section [section 376 of title 21 U. S. C., 1952 ed.] is hereby made immediately effective" are repealed by the bill to enact this revision. Such provision has been executed.
21	391	June 25, 1938, ch. 675, § 901, 52 Stat. 1059.	Section related to separability of provisions which is covered by a section of the bill to enact this revision.
21	392 note	June 25, 1938, ch. 675, § 902 (a) (c) (d), 52 Stat. 1059.	Provisions of these subsections have been executed.

TABLE 4.—OMITTED SECTIONS NOT REPEALED

Sections of title 21, U. S. C., 1952 ed., omitted from this revision but not repealed

U. S. C., 1946 ed.		Statutes at Large	Reasons for omission
Title	Section		
21	129	Mar. 4, 1917, ch. 179, 39 Stat. 1167; May 11, 1922, ch. 185, 42 Stat. 536; Feb. 26, 1923, ch. 119, 42 Stat. 1318; Apr. 2, 1924, ch. 81, § 1, 43 Stat. 40, and various subsequent Department of Agriculture Appropriation Acts.	Section derived from annual appropriation acts, and should not be enacted into permanent law by inclusion in this revision, in view of varying needs of the Department of Agriculture in connection with appropriations for the purposes named.
21	341 note	Apr. 15, 1954, ch. 143, § 3, 68 Stat. 55.	Section is of limited duration, applying only to public hearings begun prior to Apr. 15, 1954.

TABLE 5.—TRANSFERRED SECTIONS

Showing sections of title 21, U. S. C., 1952 edition, which are recommended for transfer to other titles of the United States Code

Section:	Transfer to title
20.....	7 or 15
21.....	7 or 15
22.....	7 or 15
23.....	7 or 15

TABLE 6.—CROSS REFERENCES FOR TITLE 21

Showing under specified sections and chapters of revised title 21, U. S. C., related subject matter in other sections and chapters of this title and other titles of the United States Code, 1952 edition

PART I. FOOD, DRUGS, COSMETICS, AND CAUSTIC POISONS

CHAPTER 3. FOOD, DRUGS, AND COSMETICS

Section 41

Definitions of food, drug, device, and cosmetic in provisions concerning false advertising, see section 55 of title 15.

Section 52

Adulterated, process or renovated butter, tax on, see section 2320 et seq. of title 26.

Oleomargarine, tax on importation, see sections 2300 and 2307 of title 26.

Section 57

Preservation of salmon for human consumption, see section 235 of title 48.

Section 59

Definition of oleomargarine and margarine for purposes of preventing unlawful competition, see section 55 (f) of title 15.

Section 60

Adulterated, process or renovated butter, tax on, see section 2320 et seq. of title 26.

Filled cheese, tax on, see section 2350 et seq. of title 26.

Oleomargarine, tax on importation, see sections 2300 and 2307 of title 26.

Section 71

Regulation of commerce in viruses, serums, toxins, and analogous products—

For human use, see section 262 of title 42, U. S. C.

For animal use, see chapter 57 of this revised title.

Section 111

Marking of imported articles, see sections 134 and 1304 of title 19.

CHAPTER 5. MILK AND CREAM

Milk handling orders, see section 608c of title 7.

Section 202

Inspection of dairy products for export, see section 512 of this title.

CHAPTER 9. CAUSTIC POISONS

Section 311

Insecticides, fungicides, economic poisons, etc., see section 135 et seq. of title 7.

Section 312

Mailing of poisonous articles, see section 1716 of title 18.

PART II. ANIMALS, POULTRY AND MEATS

CHAPTER 51. DEPARTMENT OF AGRICULTURE

Section 451

Bureau of Animal Industry, see sections 391–394 of title 7, Agriculture.
Packers and Stockyards Act, see section 181 et seq. of title 7, Agriculture.

CHAPTER 53. MEAT INSPECTION

Section 491

Imported meats, see section 1306 of title 19, U. S. C.

Section 497

Overtime pay of employees engaged in meat inspection, see section 394 of title 7.

Section 500

Purchase of tags, labels, etc., from meat inspection appropriations, see section 431 of title 7.

Section 502

Overtime pay of employees engaged in meat inspection, see section 394 of title 7.

Section 504

Travel expenses for meat inspection, see section 396 of title 7.

Section 512

Importation of milk and cream, see section 201 et seq. of this title.

CHAPTER 55. ANIMAL AND POULTRY DISEASE PREVENTION; TRANSPORTATION,
IMPORT AND EXPORT**Section 565**

Accommodations in vessels carrying export animals, see sections 466a, 466b of title 46, U. S. C.

Section 566

Imports from countries where rinderpest or foot-and-mouth disease exists, see section 1306 of title 19, U. S. C.

CHAPTER 57. SERUMS AND ANALOGOUS PRODUCTS

Section 611

Anti-hog-cholera serum and hog-cholera virus, regulation of marketing, see sections 851–855 of title 7, U. S. C.

Regulation of viruses, serums, toxins, and analogous products for human use, see section 262 of title 42, U. S. C.

PART III. NARCOTICS

CHAPTER 91. ADMINISTRATION

Section 711

Bureau of Narcotics, see sections 282–282c of title 5.

Harrison Anti-narcotic Act, regulating domestic sale or dispensing of narcotics, see sections 2550 et seq. and 3220 et seq. of title 26.

Narcotics—

Instruction as to effect of, see section 111 et seq. of title 20.

Taxation of, see section 2550 et seq. of title 26.

Transportation of contraband articles, see section 781 et seq. of title 49.

CHAPTER 93. NARCOTICS IMPORT AND EXPORT

Section 761

Advance of funds in connection with enforcement of provisions of this chapter, see section 529a of title 31.

Commissioner of Narcotics, appointment and duties, see sections 282-282c of title 5.

Section 765

Deportation of aliens convicted of violating narcotics laws, see sections 1251 (a) (11) and 1252 et seq. of Title 8, Aliens and Nationality.

Section 767

Exportation of narcotics to Pacific Islands, see section 969 of title 18.

TABLE 7.—POPULAR NAMES

Showing distribution of popular name acts in revised title 21, U. S. C.

Popular names	Section of revised title 21
Cattle Contagious Diseases Acts-----	551-574
Federal Caustic Poison Act-----	311-320
Federal Filled Milk Act-----	221-225
Federal Food, Drug, and Cosmetic Act-----	41-157
Federal Import Milk Act-----	201-207
Federal Import Tea Act-----	261-271
Meat Inspection Act-----	491-513, 565-573
Narcotic Drugs Import and Export Acts-----	761-772
Oleomargarine Tax Repeal Act of 1950-----	52, 58-60, 151
Opium Poppy Control Act of 1942-----	811-822

TEXT OF STATUTES FOR REPEAL IN COMPLIANCE WITH RAMSEYER RULE

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, the text of the statutes or parts thereof which are proposed to be repealed by the bill are set out below.

The citation in the left-hand column identifies the text of the Statutes at Large which immediately follows that reference; that in the right-hand column refers to the section of proposed title 21, "Food and Drugs," of the United States Code, where similar subject matter will be found. The word "Omitted" in the right-hand column indicates that the particular text of such statute was not incorporated in proposed title 21 because it was obsolete, executed, covered by other law, or superseded by later law. The specific reasons for omitting and repealing such statutes are given in the omitted laws table, elsewhere in this report.

STATUTES AT LARGE

May 29, 1884, ch. 60, §§ 2-9, 23 Stat. T. 21, §§ 552, 554, 558, 562, 565, 571,
31-33 573, 574

SEC. 2. That the Commissioner of Agriculture is authorized to appoint two competent agents, who shall be practical stock-raisers or experienced businessmen familiar with questions pertaining to commercial transactions in livestock, whose duty it shall be, under the instructions of the Commissioner of Agriculture, to examine and report upon the best methods of treating, transporting, and caring for animals, and the means to be adopted for the suppression and extirpation of contagious pleuropneumonia, and to provide against the spread of other dangerous contagious, infectious, and communicable diseases. The compensation of said agents shall be at the rate of ten dollars per diem, with all necessary expenses, while engaged in the actual performance of their duties under this act, when absent from their usual place of business or residence as such agent.

SEC. 3. That it shall be the duty of the Commissioner of Agriculture to prepare such rules and regulations as he may deem necessary for the speedy and effectual suppression and extirpation of said diseases, and to certify such rules and regulations to the executive authority of each State and Territory, and invite said authorities to cooperate in the execution and enforcement of this act. Whenever the plans and methods of the Commissioner of Agriculture shall be accepted by any State or Territory in which pleuropneumonia or other contagious, infectious, or communicable disease is declared to exist, or such State or Territory shall have adopted plans and methods for the suppression and extirpation of said diseases, and such plans and methods shall be accepted by the Commissioner of Agriculture, and whenever the governor of a State or other properly constituted authorities signify their readiness to cooperate for the extinction of any contagious, infectious, or communicable disease in conformity with the provisions of this act, the Commissioner of Agriculture is hereby authorized to expend so much of the money appropriated by this act as may be necessary in such investigations, and in such disinfection and quarantine measures as may be necessary to prevent the spread of the disease from one State or Territory into another.

SEC. 4. That in order to promote the exportation of livestock from the United States the Commissioner of Agriculture shall make special investigation as to the existence of pleuropneumonia, or any contagious, infectious, or communicable disease, along the dividing lines between the United States and foreign countries, and along the lines of transportation from all parts of the United States to ports from which livestock are exported, and make report of the results of such investigation to the Secretary of the Treasury, who shall, from time to time, establish

such regulations concerning the exportation and transportation of livestock as the results of said investigations may require.

SEC. 5. That to prevent the exportation from any port of the United States to any port in a foreign country of livestock affected with any contagious, infectious, or communicable disease, and especially pleuropneumonia, the Secretary of the Treasury be, and he is hereby, authorized to take such steps and adopt such measures, not inconsistent with the provisions of this act, as he may deem necessary.

SEC. 6. That no railroad company within the United States, or the owners or masters of any steam or sailing or other vessel or boat, shall receive for transportation or transport, from one State or Territory to another, or from any State into the District of Columbia, or from the District into any State, any livestock affected with any contagious, infectious, or communicable disease, and especially the disease known as pleuropneumonia; nor shall any person, company, or corporation deliver for such transportation to any railroad company, or master or owner of any boat or vessel, any livestock, knowing them to be affected with any contagious, infectious, or communicable disease; nor shall any person, company, or corporation drive on foot or transport in private conveyance from one State or Territory to another, or from any State into the District of Columbia, or from the District into any State, any livestock, knowing them to be affected with any contagious, infectious, or communicable disease, and especially the disease known as pleuropneumonia: *Provided*, That the so-called splenic or Texas fever shall not be considered a contagious, infectious, or communicable disease within the meaning of sections four, five, six, and seven of this act, as to cattle being transported by rail to market for slaughter, when the same are unloaded only to be fed and watered in lots on the way thereto.

SEC. 7. That it shall be the duty of the Commissioner of Agriculture to notify, in writing, the proper officials or agents of any railroad, steamboat, or other transportation company doing business in or through any infected locality, and by publication in such newspapers as he may select, of the existence of said contagion; and any person or persons operating any such railroad, or master or owner of any boat or vessel, or owner or custodian of or person having control over such cattle or other livestock within such infected district, who shall knowingly violate the provisions of section six of this act, shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than one hundred nor more than five thousand dollars, or by imprisonment for not more than one year, or by both such fine and imprisonment.

SEC. 8. That whenever any contagious, infectious, or communicable disease affecting domestic animals, and especially the disease known as pleuropneumonia, shall be brought into or shall break out in the District of Columbia, it shall be the duty of the Commissioners of said District to take measures to suppress the same promptly and to prevent the same from spreading; and for this purpose the said Commissioners are hereby empowered to order and require that any premises, farm, or farms where such disease exists, or has existed, be put in quarantine; to order all or any animals coming into the District to be detained at any place or places for the purpose of inspection and examination; to prescribe regulations for and to require the destruction of animals affected with contagious, infectious, or communicable disease, and for the proper disposition of their hides and carcasses; to prescribe regulations for disinfection, and such other regulations as they may deem necessary to prevent infection or contagion being communicated and shall report to the Commissioner of Agriculture whatever they may do in pursuance of the provisions of this section.

SEC. 9. That it shall be the duty of the several United States district attorneys to prosecute all violations of this act which shall be brought to their notice or knowledge by any person making the complaint under oath; and the same shall be heard before any district or circuit court of the United States or Territorial court holden within the district in which the violation of this act has been committed.

May 29, 1884, ch. 60, § 10, 23 Stat. 33----- Omitted

That the sum of one hundred and fifty thousand dollars, to be immediately available, or so much thereof as may be necessary, is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, to carry into effect the provisions of this act.

Feb. 23, 1887, ch. 210, §§ 1-3, 24 Stat. Omitted

409

That the importation of opium into any of the ports of the United States by any subject of the Emperor of China is hereby prohibited. Every person guilty

of a violation of the preceding provision shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine of not more than five hundred dollars nor less than fifty dollars, or by imprisonment for a period of not more than six months nor less than thirty days, or by both such fine and imprisonment, in the discretion of the court.

SEC. 2. That every package containing opium, either in whole or in part, imported into the United States by any subject of the Emperor of China, shall be deemed forfeited to the United States; and proceedings for the declaration and consequences of such forfeiture may be instituted in the courts of the United States as in other cases of the violation of the laws relating to other illegal importations.

SEC. 3. That no citizen of the United States shall import opium into any of the open ports of China, nor transport the same from one open port to any other open port, or buy or sell opium in any of such open ports of China, nor shall any vessel owned by citizens of the United States, or any vessel, whether foreign or otherwise, employed by any citizen of the United States, or owned by any citizen of the United States, either in whole or in part, and employed by persons not citizens of the United States, take or carry opium into any of such open ports of China, or transport the same from one open port to any other open port, or be engaged in any traffic therein between or in such open ports or any of them. Citizens of the United States offending against the provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars nor less than fifty dollars, or by both such punishments, in the discretion of the court. The consular courts of the United States in China, concurrently with any district court of the United States in the district in which any offender may be found, shall have jurisdiction to hear, try, and determine all cases arising under the foregoing provisions of this section, subject to the general regulations provided by law. Every package of opium or package containing opium, either in whole or in part, brought, taken, or transported, trafficked, or dealt in contrary to the provisions of this section, shall be forfeited to the United States, for the benefit of the Emperor of China; and such forfeiture, and the declaration and consequences thereof, shall be made, had, determined, and executed by the proper authorities of the United States exercising judicial powers within the Empire of China.

Aug. 30, 1890, ch. 839, §§ 1-3, 26 Stat.
414, 415

Omitted

That the Secretary of Agriculture may cause to be made a careful inspection of salted pork and bacon intended for exportation, with a view to determining whether the same is wholesome, sound, and fit for human food whenever the laws, regulations, or orders of the Government of any foreign country to which such pork or bacon is to be exported shall require inspection thereof relating to the importation thereof into such country, and also whenever any buyer, seller, or exporter of such meats intended for exportation shall request the inspection thereof.

Such inspection shall be made at the place where such meats are packed or boxed, and each package of such meats so inspected shall bear the marks, stamps, or other device for identification provided for in the last clause of this section: *Provided*, That an inspection of such meats may also be made at the place of exportation if an inspection has not been made at the place of packing, or if in the opinion of the Secretary of Agriculture, a re-inspection becomes necessary. One copy of any certificate issued by any such inspector shall be filed in the Department of Agriculture; another copy shall be attached to the invoice of each separate shipment of such meat, and a third copy shall be delivered to the consignor or shipper of such meat as evidence that packages of salted pork and bacon have been inspected in accordance with the provisions of this act and found to be wholesome, sound, and fit for human food; and for the identification of the same such marks, stamps, or other devices as the Secretary of Agriculture may by regulation prescribe shall be affixed to each of such packages.

Any person who shall forge, counterfeit, or knowingly and wrongfully alter, deface, or destroy any of the marks, stamps, or other devices provided for in this section on any package of any such meats, or who shall forge, counterfeit, or knowingly and wrongfully alter, deface, or destroy any certificate in reference to meats provided for in this section, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding one thousand dollars or imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

SEC. 2. That it shall be unlawful to import into the United States any adulterated or unwholesome food or drug or any vinous, spirituous or malt liquors, adulterated or mixed with any poisonous or noxious chemical drug or other ingredient injurious to health. Any person who shall knowingly import into the United States any such adulterated food or drug, or drink, knowing or having reasons to believe the same to be adulterated, being the owner or the agent of the owner, or the consignor or consignee of the owner, or in privity with them, assisting in such unlawful act, shall be deemed guilty of a misdemeanor, and liable to prosecution therefor in the district court of the United States for the district into which such property is imported; and, on conviction, such person shall be fined in a sum not exceeding one thousand dollars for each separate shipment, and may be imprisoned by the court for a term not exceeding one year, or both, at the discretion of the court.

SEC. 3. That any article designed for consumption as human food or drink, and any other article of the classes or description mentioned in this act, which shall be imported into the United States contrary to its provisions, shall be forfeited to the United States, and shall be proceeded against under the provisions of chapter eighteen of title thirteen of the Revised Statutes of the United States; and such imported property so declared forfeited may be destroyed or returned to the importer for exportation from the United States after the payment of all costs and expenses, under such regulations as the Secretary of the Treasury may prescribe; and the Secretary of the Treasury may cause such imported articles to be inspected or examined in order to ascertain whether the same have been so unlawfully imported.

Aug. 30, 1890, ch. 839, §§ 4, 6, 7-10, 26
Stat. 415-417

T. 21, §§ 113, 566-570, 573

SEC. 4. That whenever the President is satisfied that there is good reason to believe that any importation is being made, or is about to be made, into the United States, from any foreign country, of any article used for human food or drink that is adulterated to an extent dangerous to the health or welfare of the people of the United States, or any of them, he may issue his proclamation suspending the importation of such articles from such country for such period of time as he may think necessary to prevent such importation; and during such period it shall be unlawful to import into the United States from the countries designated in the proclamation of the President any of the articles the importation of which is so suspended.

SEC. 6. That the importation of neat cattle, sheep, and other ruminants, and swine, which are diseased or infected with any disease, or which shall have been exposed to such infection within sixty days next before their exportation, is hereby prohibited; and any person who shall knowingly violate the foregoing provision shall be deemed guilty of a misdemeanor, and shall, on conviction, be punished by a fine not exceeding five thousand dollars, or by imprisonment not exceeding three years, and any vessel or vehicle used in such unlawful importation with the knowledge of the master or owner of said vessel or vehicle that such importation is diseased or has been exposed to infection as herein described, shall be forfeited to the United States.

SEC. 7. That the Secretary of Agriculture be, and is hereby, authorized, at the expense of the owner, to place and retain in quarantine all neat cattle, sheep, and other ruminants, and all swine, imported into the United States, at such ports as he may designate for such purpose, and under such conditions as he may by regulation prescribe, respectively, for the several classes of animals above described; and for this purpose he may have and maintain possession of all lands, buildings, animals, tools, fixtures, and appurtenances now in use for the quarantine of neat cattle, and hereafter purchase, construct, or rent as may be necessary, and he may appoint veterinary surgeons, inspectors, officers, and employees by him deemed necessary to maintain such quarantine, and provide for the execution of the other provisions of this act.

SEC. 8. That the importation of all animals described in this act into any port in the United States, except such as may be designated by the Secretary of Agriculture, with the approval of the Secretary of the Treasury, as quarantine stations, is hereby prohibited; and the Secretary of Agriculture may cause to be slaughtered such of the animals named in this act as may be, under regulations prescribed by him, adjudged to be infected with any contagious disease, or to have been exposed to infection so as to be dangerous to other animals; and that the value of animals so slaughtered as being so exposed to infection but not infected may be ascertained by the agreement of the Secretary of Agriculture and owners thereof, if practicable; otherwise, by the appraisal by two persons familiar with the

character and value of such property, to be appointed by the Secretary of Agriculture, whose decision, if they agree, shall be final; otherwise, the Secretary of Agriculture shall decide between them, and his decision shall be final; and the amount of the value thus ascertained shall be paid to the owner thereof out of money in the Treasury appropriated for the use of the Bureau of Animal Industry; but no payment shall be made for any animal imported in violation of the provisions of this act. If any animal subject to quarantine according to the provisions of this act are brought into any port of the United States where no quarantine station is established the collector of such port shall require the same to be conveyed by the vessel on which they are imported or are found to the nearest quarantine station, at the expense of the owner.

SEC. 9. That whenever, in the opinion of the President, it shall be necessary for the protection of animals in the United States against infectious or contagious diseases, he may, by proclamation, suspend the importation of all or any class of animals for a limited time, and may change, modify, revoke, or renew such proclamation, as the public good may require; and during the time of such suspension the importation of any such animals shall be unlawful.

SEC. 10. That the Secretary of Agriculture shall cause careful inspection to be made by a suitable officer of all imported animals described in this act, to ascertain whether such animals are infected with contagious diseases or have been exposed to infection so as to be dangerous to other animals, which shall then either be placed in quarantine or dealt with according to the regulations of the Secretary of Agriculture; and all food, litter, manure, clothing, utensils, and other appliances that have been so related to such animals on board ship as to be judged liable to convey infection shall be dealt with according to the regulations of the Secretary of Agriculture; and the Secretary of Agriculture may cause inspection to be made of all animals described in this act intended for exportation, and provide for the disinfection of all vessels engaged in the transportation thereof, and of all barges or other vessels used in the conveyance of such animals intended for export to the ocean steamer or other vessels, and of all attendants and their clothing, and of all head-ropes and other appliances used in such exportation, by such orders and regulations as he may prescribe; and if, upon such inspection, any such animals shall be adjudged, under the regulations of the Secretary of Agriculture, to be infected or to have been exposed to infection so as to be dangerous to other animals, they shall not be allowed to be placed upon any vessel for exportation; the expense of all the inspection and disinfection provided for in this section to be borne by the owners of the vessels on which such animals are exported.

Mar. 2, 1897, ch. 358 §§ 1-10, 29 Stat.
604-607

T. 21, §§ 3, 4, 261-270

That from and after May first, eighteen hundred and ninety-seven, it shall be unlawful for any person or persons or corporation to import or bring into the United States any merchandise as tea which is inferior in purity, quality, and fitness for consumption to the standards provided in section three of this Act and the importation of all such merchandise is hereby prohibited.

SEC. 2. That immediately after the passage of this Act, and on or before February fifteenth of each year thereafter, the Secretary of the Treasury shall appoint a board, to consist of seven members, each of whom shall be an expert in teas, and who shall prepare and submit to him standard samples of tea; that the persons so appointed shall be at all times subject to removal by the said Secretary, and shall serve for the term of one year; that vacancies in the said board occurring by removal, death, resignation, or any other cause shall be forthwith filled by the Secretary of the Treasury by appointment, such appointee to hold for the unexpired term; that said board shall appoint a presiding officer, who shall be the medium of all communications to or from such board; that each member of said board shall receive as compensation the sum of fifty dollars per annum, which, together with all necessary expenses while engaged upon the duty herein provided, shall be paid out of the appropriation for "expenses of collecting the revenue from customs."

SEC. 3. That the Secretary of the Treasury, upon the recommendation of the said board, shall fix and establish uniform standards of purity, quality, and fitness for consumption of all kinds of teas imported into the United States, and shall procure and deposit in the customhouses of the ports of New York, Chicago, San Francisco, and such other ports as he may determine, duplicate samples of such standards; that said Secretary shall procure a sufficient number of other duplicate samples of such standards to supply the importers and dealers in tea at all ports desiring the same at cost. All teas, or merchandise described as tea,

of inferior purity, quality, and fitness for consumption to such standards shall be deemed within the prohibition of the first section hereof.

SEC. 4. That on making entry at the customhouse of all teas, or merchandise described as tea, imported into the United States, the importer or consignee shall give a bond to the collector of the port that such merchandise shall not be removed from the warehouse until released by the collector, after it shall have been duly examined with reference to its purity, quality, and fitness for consumption; that for the purpose of such examination samples of each line in every invoice of tea shall be submitted by the importer or consignee to the examiner, together with the sworn statement of such importer or consignee that such samples represent the true quality of each and every part of the invoice and accord with the specifications therein contained; or in the discretion of the Secretary of the Treasury, such samples shall be obtained by the examiner and compared by him with the standards established by this Act; and in cases where said tea, or merchandise described as tea, is entered at ports where there is no qualified examiner as provided in section seven, the consignee or importer shall in the manner aforesaid furnish under oath a sample of each line of tea to the collector or other revenue officer to whom is committed the collection of duties, and said officer shall also draw or cause to be drawn samples of each line in every invoice and shall forward the same to a duly qualified examiner as provided in section seven: *Provided, however,* That the bond above required shall also be conditioned for the payment of all customhouse charges which may attach to such merchandise prior to its being released or destroyed (as the case may be) under the provisions of this Act.

SEC. 5. That if, after an examination as provided in section four, the tea is found by the examiner to be equal in purity, quality, and fitness for consumption to the standards hereinbefore provided, and no reexamination shall be demanded by the collector as provided in section six, a permit shall at once be granted to the importer or consignee declaring the tea free from the control of the customs authorities; but if on examination such tea, or merchandise described as tea, is found, in the opinion of the examiner, to be inferior in purity, quality, and fitness for consumption to the said standards the importer or consignee shall be immediately notified, and the tea, or merchandise described as tea, shall not be released by the customhouse, unless on a reexamination called for by the importer or consignee the finding of the examiner shall be found to be erroneous: *Provided,* That should a portion of the invoice be passed by the examiner, a permit shall be granted for that portion and the remainder held for further examination, as provided in section six.

SEC. 6. That in case the collector, importer, or consignee shall protest against the finding of the examiner, the matter in dispute shall be referred for decision to a board of three United States general appraisers, to be designated by the Secretary of the Treasury, and if such board shall, after due examination, find the tea in question to be equal in purity, quality, and fitness for consumption to the proper standards, a permit shall be issued by the collector for its release and delivery to the importer; but if upon such final reexamination by such board the tea shall be found to be inferior in purity, quality, and fitness for consumption to the said standards, the importer or consignee shall give a bond, with security satisfactory to the collector, to export said tea, or merchandise described as tea, out of the limits of the United States within a period of six months after such final reexamination; and if the same shall not have been exported within the time specified, the collector, at the expiration of that time, shall cause the same to be destroyed.

SEC. 7. That the examination herein provided for shall be made by a duly qualified examiner at a port where standard samples are established, and where the merchandise is entered at ports where there is no qualified examiner, the examination shall be made at that one of said ports which is nearest the port of entry, and that for this purpose samples of the merchandise, obtained in the manner prescribed by section four of this Act, shall be forwarded to the proper port by the collector or chief officer at the port of entry; that in all cases of examination or reexamination of teas, or merchandise described as tea, by examiners or boards of United States general appraisers under the provisions of this Act, the purity, quality, and fitness for consumption of the same shall be tested according to the usages and customs of the tea trade, including the testing of an infusion of the same in boiling water, and, if necessary, chemical analysis.

SEC. 8. That in cases of reexamination of teas, or merchandise described as teas, by a board of United States general appraisers in pursuance of the provisions hereof, samples of the tea, or merchandise described as tea, in dispute, for transmission to such board for its decision, shall be put up and sealed by the

examiner in the presence of the importer or consignee if he so desires, and transmitted to such board, together with a copy of the finding of the examiner, setting forth the cause of condemnation and the claim or ground of the protest of the importer relating to the same, such samples, and the papers therewith, to be distinguished by such mark that the same may be identified; that the decision of such board shall be in writing, signed by them, and transmitted, together with the record and samples, within three days after the rendition thereof, to the collector, who shall forthwith furnish the examiner and the importer or consignee with a copy of said decision of finding. The board of United States general appraisers herein provided for shall be authorized to obtain the advice, when necessary, of persons skilled in the examination of teas, who shall each receive for his services in any particular case a compensation not exceeding five dollars.

SEC. 9. That no imported teas which have been rejected by a customs examiner or by a board of United States general appraisers, and exported under the provisions of this Act, shall be reimported into the United States under the penalty of forfeiture for a violation of this prohibition.

SEC. 10. That the Secretary of the Treasury shall have the power to enforce the provisions of this Act by appropriate regulations.

May 9, 1902, ch. 784, § 1, 32 Stat. 193----- T. 21, § 58

That all articles known as oleomargarine, butterine, imitation, process, renovated, or adulterated butter, or imitation cheese, or any substance in the semblance of butter or cheese not the usual product of the dairy and not made exclusively of pure and unadulterated milk or cream, transported into any State or Territory or the District of Columbia, and remaining therein for use, consumption, sale, or storage therein, shall, upon the arrival within the limits of such State or Territory or the District of Columbia, be subject to the operation and effect of the laws of such State or Territory or the District of Columbia, enacted in the exercise of its police powers to the same extent and in the same manner as though such articles or substances had been produced in such State or Territory or the District of Columbia, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise.

July 1, 1902, ch. 1357, §§ 1, 2, 32 Stat.

Omitted

632

That no person or persons, company or corporation, shall introduce into any State or Territory of the United States or the District of Columbia from any other State or Territory of the United States or the District of Columbia, or sell in the District of Columbia or in any Territory any dairy or food products which shall be falsely labeled or branded as to the State or Territory in which they are made, produced, or grown, or cause or procure the same to be done by others.

SEC. 2. That if any person or persons violate the provisions of this Act, either in person or through another, he shall be guilty of a misdemeanor and shall be punished by a fine of not less than five hundred nor more than two thousand dollars; and that the jurisdiction for the prosecution of said misdemeanor shall be within the district of the United States court in which it is committed.

Feb. 2, 1903, ch. 349, §§ 1-3, 32 Stat.
791, 792

T. 21, §§ 551, 558, 565, 572, 573

That in order to enable the Secretary of Agriculture to effectually suppress and extirpate contagious pleuropneumonia, foot and mouth disease, and other dangerous contagious, infectious, and communicable diseases in cattle and other live stock, and to prevent the spread of such diseases, the powers conferred on the Secretary of the Treasury by sections four and five of an Act entitled "An Act for the establishment of a Bureau of Animal Industry, to prevent the exportation of diseased cattle, and to provide means for the suppression and extirpation of pleuropneumonia and other contagious diseases among domestic animals," approved May twenty-ninth, eighteen hundred and eighty-four (twenty-third United States Statutes, thirty-one), are hereby conferred on the Secretary of Agriculture, to be exercised exclusively by him. He is hereby authorized and directed, from time to time, to establish such rules and regulations concerning the exportation and transportation of live stock from any place within the United States where he may have reason to believe such diseases may exist into and through any State or Territory, including the Indian Territory, and into and through the District of Columbia and to foreign countries, as he may deem necessary, and all such rules and regulations shall have the force of law. Whenever any inspector or assistant inspector of the Bureau of Animal Industry shall issue a certificate showing that such officer had inspected any cattle or other live

stock which were about to be shipped, driven, or transported from such locality to another, as above stated, and had found them free from Texas or splenic fever infection, pleuropneumonia, foot and mouth disease, or any other infectious, contagious, or communicable disease, such animals, so inspected and certified, may be shipped, driven, or transported from such place into and through any State or Territory, including the Indian Territory, and into and through the District of Columbia, or they may be exported from the United States without further inspection or the exaction of fees of any kind, except such as may at any time be ordered or exacted by the Secretary of Agriculture; and all such animals shall at all times be under the control and supervision of the Bureau of Animal Industry of the Agricultural Department for the purposes of such inspection.

SEC. 2. That the Secretary of Agriculture shall have authority to make such regulations and take such measures as he may deem proper to prevent the introduction or dissemination of the contagion of any contagious, infectious, or communicable disease of animals from a foreign country into the United States or from one State or Territory of the United States or the District of Columbia to another, and to seize, quarantine, and dispose of any hay, straw, forage, or similar material, or any meats, hides, or other animal products coming from an infected foreign country to the United States, or from one State or Territory or the District of Columbia in transit to another State or Territory or the District of Columbia whenever in his judgment such action is advisable in order to guard against the introduction or spread of such contagion.

SEC. 3. That any person, company, or corporation knowingly violating the provisions of this Act or the orders or regulations made in pursuance thereof shall be guilty of a misdemeanor, and on conviction shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment not more than one year, or by both such fine and imprisonment.

Mar. 3, 1905, ch. 1496, §§ 1-4, 6, 33 Stat.
1264, 1265

T. 21, §§ 559-561, 573

That the Secretary of Agriculture is authorized and directed to quarantine any State or Territory or the District of Columbia, or any portion of any State or Territory or the District of Columbia, when he shall determine the fact that cattle or other live stock in such State or Territory or District of Columbia are affected with any contagious, infectious, or communicable disease; and the Secretary of Agriculture is directed to give written or printed notice of the establishment of quarantine to the proper officers of railroad, steamboat, or other transportation companies doing business in or through any quarantined State or Territory or the District of Columbia, and to publish in such newspapers in the quarantined State or Territory or the District of Columbia, as the Secretary of Agriculture may select, notice of the establishment of quarantine.

SEC. 2. That no railroad company or the owners or masters of any steam or sailing or other vessel or boat shall receive for transportation or transport from any quarantined State or Territory or the District of Columbia, or from the quarantined portion of any State or Territory or the District of Columbia, into any other State or Territory or the District of Columbia, any cattle or other live stock, except as hereinafter provided; nor shall any person, company, or corporation deliver for such transportation to any railroad company, or to the master or owner of any boat or vessel, any cattle or other live stock, except as hereinafter provided; nor shall any person, company, or corporation drive on foot, or cause to be driven on foot, or transport in private conveyance or cause to be transported in private conveyance, from a quarantined State or Territory or the District of Columbia, or from the quarantined portion of any State or Territory or the District of Columbia, into any other State or Territory or the District of Columbia, any cattle or other live stock, except as hereinafter provided.

SEC. 3. That it shall be the duty of the Secretary of Agriculture, and he is hereby authorized and directed, when the public safety will permit, to make and promulgate rules and regulations which shall permit and govern the inspection, disinfection, certification, treatment, handling, and method and manner of delivery and shipment of cattle or other livestock from a quarantined State or Territory or the District of Columbia, and from the quarantined portion of any State or Territory or the District of Columbia, into any other State or Territory or the District of Columbia; and the Secretary of Agriculture shall give notice of such rules and regulations in the manner provided in section two of this Act for notice of establishment of quarantine.

SEC. 4. That cattle or other livestock may be moved from a quarantined State or Territory or the District of Columbia, or from the quarantined portion of any

State or Territory or the District of Columbia, into any other State or Territory or the District of Columbia, under and in compliance with the rules and regulations of the Secretary of Agriculture, made and promulgated in pursuance of the provisions of section three of this Act; but it shall be unlawful to move, or to allow to be moved, any cattle or other livestock from any quarantined State or Territory or the District of Columbia, or from the quarantined portion of any State or Territory or the District of Columbia, into any other State or Territory or the District of Columbia, in manner or method or under conditions other than those prescribed by the Secretary of Agriculture.

SEC. 6. That any person, company, or corporation violating the provisions of sections two or four of this Act shall be guilty of a misdemeanor, and on conviction shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment not more than one year, or by both such fine and imprisonment.

June 30, 1906, ch. 3913 (part), 34 Stat.
679

Omitted

That there is permanently appropriated, out of any money in the Treasury not otherwise appropriated, the sum of three million dollars, for the expenses of the inspection of cattle, sheep, swine, and goats and the meat and meat food products thereof which enter into interstate or foreign commerce and for all expenses necessary to carry into effect the provisions of this Act relating to meat inspection, including rent and the employment of labor in Washington and elsewhere, for each year. And the Secretary of Agriculture shall, in his annual estimates made to Congress, submit a statement in detail, showing the number of persons employed in such inspections and the salary or per diem paid to each, together with the contingent expenses of such inspectors and where they have been and are employed.

Mar. 4, 1907, ch. 2907 (part), 34 Stat.
1260-1265

T. 21, §§ 491-503, 505-510, 565, 573

FOR MEAT INSPECTION: That hereafter, for the purpose of preventing the use in interstate or foreign commerce, as hereinafter provided, of meat and meat food products which are unsound, unhealthful, unwholesome, or otherwise unfit for human food, the Secretary of Agriculture, at his discretion, may cause to be made, by inspectors appointed for that purpose, an examination and inspection of all cattle, sheep, swine, and goats before they shall be allowed to enter into any slaughtering, packing, meat-canning, rendering, or similar establishment, in which they are to be slaughtered and the meat and meat food products thereof are to be used in interstate or foreign commerce; and all cattle, swine, sheep, and goats found on such inspection to show symptoms of disease shall be set apart and slaughtered separately from all other cattle, sheep, swine, or goats, and when so slaughtered the carcasses of said cattle, sheep, swine, or goats shall be subject to a careful examination and inspection, all as provided by the rules and regulations to be prescribed by the Secretary of Agriculture, as herein provided for.

That for the purposes hereinbefore set forth the Secretary of Agriculture shall cause to be made by inspectors appointed for that purpose, as hereinafter provided, a post-mortem examination and inspection of the carcasses and parts thereof of all cattle, sheep, swine, and goats to be prepared for human consumption at any slaughtering, meat-canning, salting, packing, rendering, or similar establishment in any State, Territory, or the District of Columbia for transportation or sale as articles of interstate or foreign commerce; and the carcasses and parts thereof of all such animals found to be sound, healthful, wholesome, and fit for human food shall be marked, stamped, tagged, or labeled as "Inspected and passed"; and said inspectors shall label, mark, stamp, or tag as "Inspected and condemned" all carcasses and parts thereof of animals found to be unsound, unhealthful, unwholesome, or otherwise unfit for human food; and all carcasses and parts thereof thus inspected and condemned shall be destroyed for food purposes by the said establishment in the presence of an inspector, and the Secretary of Agriculture may remove inspectors from any such establishment which fails to so destroy any such condemned carcass or part thereof, and said inspectors, after said first inspection, shall, when they deem it necessary, reinspect said carcasses or parts thereof to determine whether since the first inspection the same have become unsound, unhealthful, unwholesome, or in any way unfit for human food, and if any carcass or any part thereof shall, upon examination and inspection subsequent to the first examination and inspection, be found to be unsound, unhealthful, unwholesome, or otherwise unfit for human food, it shall be destroyed for food purposes

by the said establishment in the presence of an inspector, and the Secretary of Agriculture may remove inspectors from any establishment which fails to so destroy any such condemned carcass or part thereof.

The foregoing provisions shall apply to all carcasses or parts of carcasses of cattle, sheep, swine, and goats, or the meat or meat products thereof which may be brought into any slaughtering, meat-canning, salting, packing, rendering, or similar establishment, and such examination and inspection shall be had before the said carcasses or parts thereof shall be allowed to enter into any department wherein the same are to be treated and prepared for meat food products; and the foregoing provisions shall also apply to all such products which, after having been issued from any slaughtering, meat-canning, salting, packing, rendering, or similar establishment, shall be returned to the same or to any similar establishment where such inspection is maintained.

That for the purposes hereinbefore set forth the Secretary of Agriculture shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of all meat food products prepared for interstate or foreign commerce in any slaughtering, meat-canning, salting, packing, rendering, or similar establishment, and for the purposes of any examination and inspection said inspectors shall have access at all times, by day or night, whether the establishment be operated or not, to every part of said establishment; and said inspectors shall mark, stamp, tag, or label as "Inspected and passed" all such products found to be sound, healthful, and wholesome, and which contain no dyes, chemicals, preservatives, or ingredients which render such meat, or meat food products unsound, unhealthful, unwholesome, or unfit for human food; and said inspectors shall label, mark, stamp, or tag as "Inspected and condemned" all such products found unsound, unhealthful, and unwholesome, or which contain dyes, chemicals, preservatives, or ingredients which render such meat or meat food products unsound, unhealthful, unwholesome, or unfit for human food, and all such condemned meat food products shall be destroyed for food purposes, as hereinbefore provided, and the Secretary of Agriculture may remove inspectors from any establishment which fails to so destroy such condemned meat food products: *Provided*, That subject to the rules and regulations of the Secretary of Agriculture the provisions hereof in regard to preservatives shall not apply to meat food products for export to any foreign country and which are prepared or packed according to the specifications or directions of the foreign purchaser, when no substance is used in the preparation or packing thereof in conflict with the laws of the foreign country to which said article is to be exported; but if said article shall be in fact sold or offered for sale for domestic use or consumption then this proviso shall not exempt said article from the operation of all the other provisions of this Act.

That when any meat or meat food product prepared for interstate or foreign commerce which has been inspected as hereinbefore provided and marked "Inspected and passed" shall be placed or packed in any can, pot, tin, canvas, or other receptacle or covering in any establishment where inspection under the provisions of this Act is maintained, the person, firm, or corporation preparing said product shall cause a label to be attached to said can, pot, tin, canvas, or other receptacle or covering, under the supervision of an inspector, which label shall state that the contents thereof have been "inspected and passed" under the provisions of this Act; and no inspection and examination of meat or meat food products deposited or inclosed in cans, tins, pots, canvas, or other receptacle or covering in any establishment where inspection under the provisions of this Act is maintained shall be deemed to be complete until such meat or meat food products have been sealed or inclosed in said can, tin, pot, canvas, or other receptacle or covering under the supervision of an inspector, and no such meat or meat food products shall be sold or offered for sale by any person, firm, or corporation in interstate or foreign commerce under any false or deceptive name; but established trade name or names which are usual to such products and which are not false and deceptive and which shall be approved by the Secretary of Agriculture are permitted.

The Secretary of Agriculture shall cause to be made, by experts in sanitation or by other competent inspectors, such inspection of all slaughtering, meat canning, salting, packing, rendering, or similar establishments in which cattle, sheep, swine, and goats are slaughtered and the meat and meat food products thereof are prepared for interstate or foreign commerce as may be necessary to inform himself concerning the sanitary conditions of the same, and to prescribe the rules and regulations of sanitation under which such establishments shall be maintained; and where the sanitary conditions of any such establishment are such that the meat or meat food products are rendered unclean, unsound, un-

healthful, unwholesome, or otherwise unfit for human food, he shall refuse to allow said meat or meat food products to be labeled, marked, stamped, or tagged as "inspected and passed."

That the Secretary of Agriculture shall cause an examination and inspection of all cattle, sheep, swine, and goats, and the food products thereof, slaughtered and prepared in the establishments hereinbefore described for the purposes of interstate or foreign commerce to be made during the nighttime as well as during the daytime when the slaughtering of said cattle, sheep, swine, and goats, or the preparation of said food products is conducted during the nighttime.

That on and after October first, nineteen hundred and six, no person, firm, or corporation shall transport or offer for transportation, and no carrier of interstate or foreign commerce shall transport or receive for transportation from one State or Territory or the District of Columbia to any other State or Territory or the District of Columbia, or to any place under the jurisdiction of the United States, or to any foreign country, any carcasses or parts thereof, meat, or meat food products thereof which have not been inspected, examined, and marked as "Inspected and passed," in accordance with the terms of this Act and with the rules and regulations prescribed by the Secretary of Agriculture: *Provided*, That all meat and meat food products on hand on October first, nineteen hundred and six, at establishments where inspection has not been maintained, or which have been inspected under existing law, shall be examined and labeled under such rules and regulations as the Secretary of Agriculture shall prescribe, and then shall be allowed to be sold in interstate or foreign commerce.

That no person, firm, or corporation, or officer, agent, or employee thereof, shall forge, counterfeit, simulate, or falsely represent, or shall without proper authority use, fail to use, or detach, or shall knowingly or wrongfully alter, deface, or destroy, or fail to deface or destroy, any of the marks, stamps, tags, labels, or other identification devices provided for in this Act, or in and as directed by the rules and regulations prescribed hereunder by the Secretary of Agriculture, on any carcasses, parts of carcasses, or the food product, or containers thereof, subject to the provisions of this Act, or any certificate in relation thereto, authorized or required by this Act or by the said rules and regulations of the Secretary of Agriculture.

That the Secretary of Agriculture shall cause to be made a careful inspection of all cattle, sheep, swine, and goats, intended and offered for export to foreign countries at such times and places, and in such manner as he may deem proper, to ascertain whether such cattle, sheep, swine, and goats are free from disease.

And for this purpose he may appoint inspectors who shall be authorized to give an official certificate clearly stating the condition in which such cattle, sheep, swine, and goats are found.

And no clearance shall be given to any vessel having on board cattle, sheep, swine, or goats for export to a foreign country until the owner or shipper of such cattle, sheep, swine, or goats has a certificate from the inspector herein authorized to be appointed, stating that the said cattle, sheep, swine, or goats are sound and healthy, or unless the Secretary of Agriculture shall have waived the requirement of such certificate for export to the particular country to which such cattle, sheep, swine, or goats are to be exported.

That the Secretary of Agriculture shall also cause to be made a careful inspection of the carcasses and parts thereof of all cattle, sheep, swine, and goats, the meat of which, fresh, salted, canned, corned, packed, cured, or otherwise prepared, is intended and offered for export to any foreign country, at such times and places and in such manner as he may deem proper.

And for this purpose he may appoint inspectors who shall be authorized to give an official certificate stating the condition in which said cattle, sheep, swine, or goats, and the meat thereof, are found.

And no clearance shall be given to any vessel having on board any fresh, salted, canned, corned, or packed beef, mutton, pork, or goat meat, being the meat of animals killed after the passage of this Act, or except as hereinbefore provided for export to and sale in a foreign country from any port in the United States, until the owner or shipper thereof shall obtain from an inspector appointed under the provisions of this Act a certificate that the said cattle, sheep, swine, and goats were sound and healthy at the time of inspection, and that their meat is sound and wholesome, unless the Secretary of Agriculture shall have waived the requirements of such certificate for the country to which said cattle, sheep, swine, and goats or meats are to be exported.

That the inspectors provided for herein shall be authorized to give official certificates of the sound and wholesome condition of the cattle, sheep, swine, and

goats, their carcasses and products as herein described; and one copy of every certificate granted under the provisions of this Act shall be filed in the Department of Agriculture, another copy shall be delivered to the owner or shipper, and when the cattle, sheep, swine, and goats or their carcasses and products are sent abroad, a third copy shall be delivered to the chief officer of the vessel on which the shipment shall be made.

That no person, firm, or corporation engaged in the interstate commerce of meat or meat food products shall transport or offer for transportation, sell or offer to sell any such meat or meat food products in any State or Territory or in the District of Columbia or any place under the jurisdiction of the United States, other than in the State or Territory or in the District of Columbia or any place under the jurisdiction of the United States in which the slaughtering, packing, canning, rendering, or other similar establishment owned, leased, or operated by said firm, person, or corporation is located unless and until said person, firm, or corporation shall have complied with all of the provisions of this Act.

That any person, firm, or corporation, or any officer or agent of any such person, firm, or corporation, who shall violate any of the provisions of this Act shall be deemed guilty of a misdemeanor and shall be punished on conviction thereof by a fine of not exceeding ten thousand dollars or imprisonment for a period of not more than two years, or by both such fine and imprisonment, in the discretion of the court.

That the Secretary of Agriculture shall appoint from time to time inspectors to make examination and inspection of all cattle, sheep, swine, and goats, the inspection of which is hereby provided for, and of all carcasses and parts thereof, and of all meats and meat food products thereof, and of the sanitary conditions of all establishments in which such meat and meat food products hereinbefore described are prepared; and said inspectors shall refuse to stamp, mark, tag, or label any carcass or any part thereof, or meat food product therefrom, prepared in any establishment hereinbefore mentioned, until the same shall have actually been inspected, and found to be sound, healthful, wholesome, and fit for human food, and to contain no dyes, chemicals, preservatives, or ingredients which render such meat food product unsound, unhealthful, unwholesome, or unfit for human food; and to have been prepared under proper sanitary conditions, hereinbefore provided for; and shall perform such other duties as are provided by this Act and by the rules and regulations to be prescribed by said Secretary of Agriculture; and said Secretary of Agriculture shall, from time to time, make such rules and regulations as are necessary for the efficient execution of the provisions of this Act, and all inspections and examinations made under this Act shall be such and made in such manner as described in the rules and regulations prescribed by said Secretary of Agriculture not inconsistent with the provisions of this Act.

That any person, firm, or corporation, or any agent or employee of any person, firm, or corporation who shall give, pay, or offer, directly or indirectly, to any inspector, deputy inspector, chief inspector, or any other officer or employee of the United States authorized to perform any of the duties prescribed by this Act or by the rules and regulations of the Secretary of Agriculture any money or other thing of value, with intent to influence said inspector, deputy inspector, chief inspector, or other officer or employee of the United States in the discharge of any duty herein provided for, shall be deemed guilty of a felony and, upon conviction thereof, shall be punished by a fine not less than five thousand dollars nor more than ten thousand dollars and by imprisonment not less than one year nor more than three years; and any inspector, deputy inspector, chief inspector, or other officer or employee of the United States authorized to perform any of the duties prescribed by this Act who shall accept any money, gift, or other thing of value from any person, firm, or corporation, or officers, agents, or employees thereof, given with intent to influence his official action, or who shall receive or accept from any person, firm, or corporation engaged in interstate or foreign commerce any gift, money, or other thing of value given with any purpose or intent whatsoever, shall be deemed guilty of a felony and shall, upon conviction thereof, be summarily discharged from office and shall be punished by a fine not less than one thousand dollars nor more than ten thousand dollars and by imprisonment not less than one year nor more than three years.

That the provisions of this Act requiring inspection to be made by the Secretary of Agriculture shall not apply to animals slaughtered by any farmer on the farm and sold and transported as interstate or foreign commerce, nor to retail butchers and retail dealers in meat and meat food products, supplying their customers: *Provided*, That if any person shall sell or offer for sale or transportation for interstate or foreign commerce any meat or meat food products which are diseased,

unsound, unhealthful, unwholesome, or otherwise unfit for human food, knowing that such meat food products are intended for human consumption, he shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding one thousand dollars or by imprisonment for a period of not exceeding one year, or by both such fine and imprisonment: *Provided also*, That the Secretary of Agriculture is authorized to maintain the inspection in this Act provided for at any slaughtering, meat-canning, salting, packing, rendering, or similar establishment notwithstanding this exception, and that the persons operating the same may be retail butchers and retail dealers or farmers; and where the Secretary of Agriculture shall establish such inspection then the provisions of this Act shall apply notwithstanding this exception.

May 16, 1908, ch. 170, 35 Stat. 163----- T. 21, § 261

That section one of "An Act to prevent the importation of impure and unwholesome tea," approved March second, eighteen hundred and ninety-seven, be amended by adding at the end thereof the following words: "*Provided*, That nothing herein shall affect or prevent the importation into the United States, under such regulations as the Secretary of the Treasury may prescribe, of any merchandise as tea which may be inferior in purity, quality, and fitness for consumption to the standards established by the Secretary of the Treasury, or of any tea waste, tea siftings, or tea sweepings, for the sole purpose of manufacturing theine, caffeine, or other chemical products whereby the identity and character of the original material is entirely destroyed or changed; and that importers and manufacturers who import or bring into the United States such tea, tea waste, tea siftings, or tea sweepings shall give suitable bond, to be approved as to amount and securities by the Secretary of the Treasury, conditioned, that said imported material shall be only used for the purposes herein provided under such regulations as may be prescribed by the Secretary of the Treasury."

May 23, 1908, ch. 192 (part), 35 Stat.
254, 255

T. 21, § 512

Provided, That the Act of March third, eighteen hundred and ninety-one, as amended March second, eighteen hundred and ninety-five, for the inspection of live cattle and products thereof, shall be deemed to include dairy products intended for exportation to any foreign country, and the Secretary of Agriculture may apply, under rules and regulations to be prescribed by him, the provisions of said Act for inspection and certification appropriate for ascertaining the purity and quality of such products, and may cause the same to be so marked, stamped, or labeled as to secure their identity and made known in the markets of foreign countries to which they may be sent from the United States their purity, quality, and grade; and all the provisions of said Act relating to live cattle and products thereof for export shall apply to dairy products so inspected and certified:

Feb. 9, 1909, ch. 100, §§ 1, 2 (b) (c) (d)
(c) (g), 3, 4, 5, 6, 7, 35 Stat. 614,
as amended by Acts Jan. 17, 1914, ch.
9, 38 Stat. 275-277; May 26, 1922,
ch. 202, §§ 1, 2, 42 Stat. 596, 597;
June 7, 1924, ch. 352, 43 Stat. 657;
July 1, 1944, ch. 377, § 858 Stat. 721;
Mar. 8, 1946, ch. 81, 60 Stat. 39; Nov.
2, 1951, ch. 666, § 1, 65 Stat. 767;
June 27, 1952, ch. 477, § 403 (a) (10),
66 Stat. 279

T. 21, §§ 711, 761-768, 770, 771

That when used in this Act—

(a) The term "narcotic drug" means opium, coca leaves, cocaine, isonepeccaine, opiate, or any salt, derivative, or preparation of opium, coca leaves, cocaine, isonepeccaine or opiate; and the word "isonepeccaine" as used herein shall mean any substance identified chemically as 1-methyl-4-phenyl-piperidine-4-carboxylic acid ethyl ester, or any salt thereof, by whatever trade name designated; and the word "opiate" as used herein shall have the same meaning as defined in section 3228 (f) of the Internal Revenue Code.

(b) The term "United States," when used in a geographical sense, includes the several States and Territories, and the District of Columbia;

(c) The term "board" means the Federal Narcotics Control Board established by section 2 of this Act; and

(d) The term "person" means individual, partnership, corporation, or association.

[2] (b) That it is unlawful to import or bring any narcotic drug into the United States or any territory under its control or jurisdiction; except that such amounts of crude opium and coca leaves as the board finds to be necessary to provide for medical and legitimate uses only, may be imported and brought into the United States or such territory under such regulations as the board shall prescribe but no crude opium may be imported or brought in for the purpose of manufacturing heroin. All narcotic drugs imported under such regulations shall be subject to the duties which are now or may hereafter be imposed upon such drugs when imported.

(c) Whoever fraudulently or knowingly imports or brings any narcotic drug into the United States or any territory under its control or jurisdiction, contrary to law, or receives, conceals, buys, sells, or in any manner facilitates the transportation, concealment, or sale of any such narcotic drug after being imported or brought in, knowing the same to have been imported contrary to law, or conspires to commit any of such acts in violation of the laws of the United States, shall be fined not more than \$2,000 and imprisoned not less than two or more than five years. For a second offense, the offender shall be fined not more than \$2,000 and imprisoned not less than five or more than ten years. For a third or subsequent offense, the offender shall be fined not more than \$2,000 and imprisoned not less than ten or more than twenty years. Upon conviction for a second or subsequent offense, the imposition or execution of sentence shall not be suspended and probation shall not be granted. For the purpose of this subdivision, an offender shall be considered a second or subsequent offender, as the case may be, if he previously has been convicted of any offense the penalty for which is provided in this subdivision or in section 2557 (b) (1) of the Internal Revenue Code, or if he previously has been convicted of any offense the penalty for which was provided in section 9, chapter 1, of the Act of December 17, 1914 (38 Stat. 789), as amended; section 1, chapter 202, of the Act of May 26, 1922 (42 Stat. 596), as amended; section 12, chapter 553, of the Act of August 2, 1937 (50 Stat. 556), as amended; or sections 2557 (b) (1) or 2596 of the Internal Revenue Code enacted February 10, 1939 (ch. 2, 53 Stat. 274, 282), as amended. After conviction, but prior to pronouncement of sentence, the court shall be advised by the United States attorney whether the conviction is the offender's first or a subsequent offense. If it is not a first offense, the United States attorney shall file an information setting forth the prior convictions. The offender shall have the opportunity in open court to affirm or deny that he is identical with the person previously convicted. If he denies the identity, sentence shall be postponed for such time as to permit a trial before a jury on the sole issue of the offender's identity with the person previously convicted. If the offender is found by the jury to be the person previously convicted, or if he acknowledges that he is such person, he shall be sentenced as prescribed in this subdivision.

Whenever on trial for a violation of this subdivision the defendant is shown to have or to have had possession of the narcotic drug, such possession shall be deemed sufficient evidence to authorize conviction unless the defendant explains the possession to the satisfaction of the jury.

(d) Any narcotic drug imported or brought into the United States or any territory under its control or jurisdiction, contrary to law, shall, (1) if smoking opium and opium prepared for smoking, be seized and summarily forfeited to the United States Government without the necessity of instituting forfeiture proceedings of any character; or (2), if any other narcotic drug, be seized and forfeited to the United States Government, without regard to its value, in the manner provided by sections 3075 and 3076 of the Revised Statutes, or the provisions of law hereafter enacted which are amendatory of, or in substitution for, such sections. Any narcotic drug which is forfeited in a proceeding for condemnation or not claimed under such sections, or which is summarily forfeited as provided in this subdivision, shall be placed in the custody of the board and in its discretion be destroyed or delivered to some agency of the United States Government for use for medical or scientific purposes.

(e) [Repealed by Act June 27, 1952, ch. 477, § 403 (a) (10), 66 Stat. 279].

(f) [Repealed by Act Nov. 2, 1951, ch. 666, § 5 (1), 65 Stat. 769].

(g) The master of any vessel or other water craft, or a person in charge of a railroad car or other vehicle, shall not be liable under subdivision (c), if he satisfies the jury that he had no knowledge of and used due diligence to prevent the presence of the narcotic drug in or on such vessel, water craft, railroad car, or other vehicle; but the narcotic drug shall be seized, forfeited, and disposed of as provided in subdivision (d).

SEC. 3. That on and after July first, nineteen hundred and thirteen, all smoking opium or opium prepared for smoking found within the United States shall be presumed to have been imported after the first day of April, nineteen hundred and nine, and the burden of proof shall be on the claimant or the accused to rebut such presumption.

SEC. 4. That any person subject to the jurisdiction of the United States who shall, either as principal or as accessory, receive or have in his possession, or conceal on board of or transport on any foreign or domestic vessel or other water craft or railroad car or other vehicle destined to or bound from the United States or any possession thereof, any smoking opium or opium prepared for smoking, or who, having knowledge of the presence in or on any such vessel, water craft, or vehicle of such article, shall not report the same to the principal officer thereof, shall be subject to the penalty provided in section two of this Act. Whenever on trial for violation of this section the defendant is shown to have or to have had possession of such opium, such possession shall be deemed sufficient evidence to authorize conviction, unless the defendant shall explain the possession to the satisfaction of the jury: *Provided, however,* That any master of a vessel or other water craft, or person in charge of a railroad car or other vehicle, shall not be liable under this section if he shall satisfy the jury that he had no knowledge and used due diligence to prevent the presence of such article in or on such vessel, water craft, car, or other vessel, and any such article shall be forfeited and shall be destroyed.

SEC. 5. That no smoking opium or opium prepared for smoking shall be admitted into the United States or into any territory under its control or jurisdiction for transportation to another country, or be transferred or transshipped from one vessel to another vessel within any waters of the United States for immediate exportation or for any other purpose; and except with the approval of the board, no other narcotic drug may be so admitted, transferred, or transshipped.

SEC. 6. (a) That it shall be unlawful for any person subject to the jurisdiction of the United States Government to export or cause to be exported from the United States, or from territory under its control or jurisdiction, or from countries in which the United States exercises extraterritorial jurisdiction, any narcotic drug to any other country: *Provided,* That narcotic drugs (except smoking opium and opium prepared for smoking, the exportation of which is hereby absolutely prohibited) may be exported to a country only which has ratified and become a party to the convention and final protocol between the United States Government and other powers for the suppression of the abuses of opium and other drugs, commonly known as the International Opium Convention of 1912, and then only if (1) such country has instituted and maintains, in conformity with that convention, a system, which the board deems adequate, of permits or licenses for the control of imports of such narcotic drugs; (2) the narcotic drug is consigned to an authorized permittee; and (3) there is furnished to the board proof deemed adequate by it, that the narcotic drug is to be applied exclusively to medical and legitimate uses within the country to which exported, that it will not be reexported from such country, and that there is an actual shortage of and a demand for the narcotic drug for medical and legitimate uses within such country.

(b) The Secretary of State shall request all foreign Governments to communicate through the diplomatic channels copies of the laws and regulations promulgated in their respective countries which prohibit or regulate the importation and shipment in transit of any narcotic drug and, when received, advise the board thereof.

(c) The board shall make and publish all proper regulations to carry into effect the authority vested in it by this Act.

SEC. 7. That any person who exports or causes to be exported any of the aforesaid drugs in violation of the preceding section shall be fined in any sum not exceeding \$5,000 nor less than \$50 or by imprisonment for any time not exceeding two years, or both. And one-half of any fine recovered from any person or persons convicted of an offense under any section of this Act may be paid to the person or persons giving information leading to such recovery, and one-half of any bail forfeited and collected in any proceedings brought under this Act may be paid to the person or persons giving the information which led to the institution of such proceedings, if so directed by the court exercising jurisdiction in the case: *Provided,* That no payment for giving information shall be made to any officer or employee of the United States.

Feb. 9, 1909, ch. 100, § 8, as amended
Jan. 17, 1914, ch. 9, 38 Stat. 277;
May 26, 1922, ch. 202, § 3, 42 Stat. 598

Omitted

(a) That a narcotic drug that is found upon a vessel arriving at a port of the United States or territory under its control or jurisdiction and is not shown upon the vessel's manifest, or that is landed from any such vessel without a permit first obtained from the collector of customs for that purpose, shall be seized, forfeited, and disposed of in the manner provided in subdivision (d) of section 2 and the master of the vessel shall be liable (1) if the narcotic drug is smoking opium, to a penalty of \$25 an ounce, and (2) if any other narcotic drug, to a penalty equal to the value of the narcotic drug.

(b) Such penalty shall constitute a lien upon the vessel which may be enforced by proceedings by libel in rem. Clearance of the vessel from a port of the United States may be withheld until the penalty is paid, or until there is deposited with the collector of customs at the port, a bond in a penal sum double the amount of the penalty, with surties approved by the collector, and conditioned on the payment of the penalty (or so much thereof as is not remitted by the Secretary of the Treasury) and of all costs and other expenses to the Government in proceedings for the recovery of the penalty, in case the master's application for remission of the penalty is denied in whole or in part by the Secretary of the Treasury.

(c) The provisions of law for the mitigation and remission of penalties and forfeitures incurred for violations of the customs laws, shall apply to penalties incurred for a violation of the provisions of this section.

Feb. 9, 1909, ch. 100, § 2 (a), 35 Stat.
614, as amended by Acts Jan. 17, 1914,
ch. 9, 38 Stat. 275; May 26, 1922, ch.
202, § 1, 42 Stat. 596

Omitted

SEC. 2. (a) That there is hereby established a board to be known as the "Federal Narcotics Control Board" and to be composed of the Secretary of State, the Secretary of the Treasury, and the Secretary of Commerce. Except as otherwise provided in this Act or by other law, the administration of this Act is vested in the Department of the Treasury.

Feb. 9, 1909, ch. 100, § 9, as added by
Act May 26, 1922, ch. 202, § 4, 42
Stat. 598

T. 21, § 773

That this Act may be cited as the "Narcotic Drugs Import and Export Act."

May 26, 1910, ch. 256 (part), 36 Stat.
440

T. 21, § 558

Hereafter the Secretary of Agriculture may permit the erection of fences along international boundary lines, but entirely within the territory of the United States, for the purpose of keeping out diseased animals.

Mar. 4, 1913, ch. 145 (part), 37 Stat.
832, 833

T. 21, §§ 611-617

That from and after July first, nineteen hundred and thirteen, it shall be unlawful for any person, firm, or corporation to prepare, sell, barter, or exchange in the District of Columbia, or in the Territories, or in any place under the jurisdiction of the United States, or to ship or deliver for shipment from one State or Territory or the District of Columbia to any other State or Territory or the District of Columbia, any worthless, contaminated, dangerous, or harmful virus, serum, toxin, or analogous product intended for use in the treatment of domestic animals, and no person, firm, or corporation shall prepare, sell, barter, exchange, or ship as aforesaid any virus, serum, toxin, or analogous product manufactured within the United States and intended for use in the treatment of domestic animals, unless and until the said virus, serum, toxin, or analogous product shall have been prepared under and in compliance with regulations prescribed by the Secretary of Agriculture, at an establishment holding an unsuspended and unrevoked license issued by the Secretary of Agriculture as hereinafter authorized. That the importation into the United States, without a permit from the Secretary of Agriculture, of any virus, serum, toxin, or analogous product for use in the treatment of domestic animals, and the importation of any worthless, contaminated, dangerous, or harmful virus, serum, toxin, or analogous product for use in the treatment of domestic animals, are hereby prohibited. The Secretary of Agriculture is hereby authorized to cause the Bureau of Animal Industry to examine and inspect all viruses, serums, toxins, and analogous products, for use in the treatment of domestic animals, which are being imported or offered for importation into the United States, to determine whether such viruses, serums, toxins,

and analogous products are worthless, contaminated, dangerous, or harmful, and if it shall appear that any such virus, serum, toxin, or analogous product, for use in the treatment of domestic animals, is worthless, contaminated, dangerous, or harmful, the same shall be denied entry and shall be destroyed or returned at the expense of the owner or importer. That the Secretary of Agriculture be, and hereby is, authorized to make and promulgate from time to time such rules and regulations as may be necessary to prevent the preparation, sale, barter, exchange, or shipment as aforesaid of any worthless, contaminated, dangerous, or harmful virus, serum, toxin, or analogous product for use in the treatment of domestic animals, and to issue, suspend, and revoke licenses for the maintenance of establishments for the preparation of viruses, serums, toxins, and analogous products, for use in the treatment of domestic animals, intended for sale, barter, exchange, or shipment as aforesaid. The Secretary of Agriculture is hereby authorized to issue permits for the importation into the United States of viruses, serums, toxins, and analogous products, for use in the treatment of domestic animals, which are not worthless, contaminated, dangerous, or harmful. All licenses issued under authority of this Act to establishments where such viruses, serums, toxins, or analogous products are prepared for sale, barter, exchange, or shipment as aforesaid, shall be issued on condition that the licensee shall permit the inspection of such establishments and of such products and their preparation; and the Secretary of Agriculture may suspend or revoke any permit or license issued under authority of this Act, after opportunity for hearing has been granted the licensee or importer, when the Secretary of Agriculture is satisfied that such license or permit is being used to facilitate or effect the preparation, sale, barter, exchange, or shipment as aforesaid, or the importation into the United States of any worthless, contaminated, dangerous, or harmful virus, serum, toxin, or analogous product for use in the treatment of domestic animals. That any officer, agent, or employee of the Department of Agriculture duly authorized by the Secretary of Agriculture for the purpose may, at any hour during the daytime or nighttime, enter and inspect any establishment licensed under this Act where any virus, serum, toxin, or analogous product for use in the treatment of domestic animals is prepared for sale, barter, exchange, or shipment as aforesaid. That any person, firm, or corporation who shall violate any of the provisions of this Act shall be deemed guilty of a misdemeanor, and shall, upon conviction, be punished by a fine of not exceeding \$1,000 or by imprisonment not exceeding one year, or by both such fine and imprisonment, in the discretion of the court.

June 30, 1914, ch. 131 (part), 38 Stat. 419----- T. 21, § 561

Provided, That hereafter all the provisions of the said Act approved March third, nineteen hundred and five, shall apply to any railroad company or other common carrier, whose road or line forms any part of a route over which cattle or other live stock are transported in the course of shipment from any quarantined State or Territory or the District of Columbia, or from the quarantined portion of any State or Territory or the District of Columbia, into any other State or Territory or the District of Columbia;

June 30, 1914, ch. 131 (part), 38 Stat. 420----- T. 21, § 513

Provided, That the provisions of the meat-inspection law may be extended to the inspection of reindeer.

Mar. 3, 1915, ch. 74, §§ 1-13, 38 Stat.

Omitted

817-822

That on and after the first day of January, nineteen hundred and sixteen, it shall be unlawful in the consular districts of the United States in China for any person whose permanent allegiance is due to the United States not licensed as a pharmacist within the meaning of this Act to conduct or manage any pharmacy, drug or chemical store, apothecary shop, or other place of business for the retailing, compounding, or dispensing of any drugs, chemicals, or poisons, or for the compounding of physicians' prescriptions, or to keep exposed for sale at retail, any drugs, chemicals, or poisons, except as hereinafter provided, or, except as hereinafter provided, for any person whose permanent allegiance is due to the United States not licensed as a pharmacist within the meaning of this Act to compound, dispense, or sell, at retail, any drug, chemical, poison, or pharmaceutical preparation upon the prescription of a physician, or otherwise, or to compound physicians' prescriptions, except as an aid to and under the proper supervision of a pharmacist licensed under this Act. And it shall be unlawful for

any person, firm, or corporation owing permanent allegiance to the United States owning partly or wholly or managing a pharmacy, drug store, or other place of business to cause or permit any person other than a licensed pharmacist to compound, dispense, or sell at retail any drug, medicine, or poison, except as an aid to and under the proper supervision of a licensed pharmacist: *Provided*, That where it is necessary for a person, firm, or corporation whose permanent allegiance is due to the United States and owning partly or wholly or managing a pharmacy, drug store, or other place of business to employ Chinese subjects to compound, dispense, or sell at retail any drug, medicine, or poison, such person, firm, corporation, owner, part owner, or manager of a pharmacy, drug store, or other place of business may employ such Chinese subjects when their character, ability, and age of twenty-one years or over have been certified to by at least two recognized and reputable practitioners of medicine, or two pharmacists licensed under this Act whose permanent allegiance is due to the United States: *Provided further*, That nothing in this section shall be construed to interfere with any recognized and reputable practitioner of medicine, dentistry, or veterinary surgery in the compounding of his own prescriptions, or to prevent him from supplying to his patients such medicines as he may deem proper, except as hereinafter provided; nor with the exclusively wholesale business of any person, firm, or corporation whose permanent allegiance is due to the United States dealing and licensed as pharmacists, or having in their employ at least one person who is so licensed, except as hereinafter provided; nor with the sale by persons, firms, or corporations whose permanent allegiance is due to the United States other than pharmacists of poisonous substances sold exclusively for use in the arts, or as insecticides, when such substances are sold in unbroken packages bearing labels having plainly printed upon them the name of the contents, the word "poison," when practicable the name of at least one suitable antidote, and the name and address of the vender.

SEC. 2. That every person whose permanent allegiance is due to the United States now practicing as a pharmacist or desiring to practice as a pharmacist in the consular districts in China shall file with the consul an application, duly verified under oath, setting forth the name and age of the applicant, the place or places at which he pursued and the time spent in the study of pharmacy, the experience which the applicant has had in compounding physicians' prescriptions under the direction of a licensed pharmacist, and the name and location of the school or college of pharmacy, if any, of which he is a graduate, and shall submit evidence sufficient to show to the satisfaction of said consul that he is of good moral character and not addicted to the use of alcoholic liquors or narcotic drugs so as to render him unfit to practice pharmacy: *Provided*, That applicants shall be not less than twenty-one years of age and shall have had at least four years' experience in the practice of pharmacy or shall have served three years under the instruction of a regularly licensed pharmacist, and any applicant who has been graduated from a school or college of pharmacy recognized by the proper board of his State, Territory, District of Columbia, or other possession of the United States as in good standing shall be entitled to practice upon presentation of his diploma.

SEC. 3. That if the applicant for license as a pharmacist has complied with the requirements of the preceding section, the consul shall issue to him a license which shall entitle him to practice pharmacy in the consular districts of the United States in China, subject to the provisions of this Act.

SEC. 4. That the license of any person whose permanent allegiance is due to the United States to practice pharmacy in the consular districts of the United States in China may be revoked by the consul if such person be found to have obtained such license by fraud, or be addicted to the use of any narcotic or stimulant, or to be suffering from physical or mental disease, in such manner and to such extent as to render it expedient that in the interests of the public his license be canceled; or to be of an immoral character; or if such person be convicted in any court of competent jurisdiction of any offense involving moral turpitude. It shall be the duty of the consul to investigate any case in which it is discovered by him or made to appear to his satisfaction that any license issued under the provisions of this Act is revocable and shall, after full hearing, if in his judgment the facts warrant it, revoke such license.

SEC. 5. That every license to practice pharmacy shall be conspicuously displayed by the person to whom the same has been issued in the pharmacy, drug store, or place of business, if any, of which the said person is the owner or part owner or manager.

SEC. 6. That it shall be unlawful for any person, firm, or corporation whose permanent allegiance is due to the United States, either personally or by servant or agent or as the servant or agent of any other person or of any firm or corporation, to sell, furnish, or give away any cocaine, salts of cocaine, or preparation containing cocaine or salts of cocaine, or morphine or preparation containing morphine or salts of morphine, or any opium or preparation containing opium, or any chloral hydrate or preparation containing chloral hydrate, except upon the original written order or prescription of a recognized and reputable practitioner of medicine, dentistry, or veterinary medicine, which order or prescription shall be dated and shall contain the name of the person for whom prescribed, or, if ordered by a practitioner of veterinary medicine, shall state the kind of animal for which ordered and shall be signed by the person giving the order or prescription. Such order or prescription shall be, for a period of three years, retained on file by the person, firm, or corporation who compounds or dispenses the article ordered or prescribed, and it shall not be compounded or dispensed after the first time except upon the written order of the original prescriber: *Provided*, That the above provisions shall not apply to preparations containing not more than two grains of opium, or not more than one-quarter grain of morphine, or not more than one-quarter grain of cocaine, or not more than two grains of chloral hydrate in the fluid ounce, or, if a solid preparation, in one avoirdupois ounce. The above provisions shall not apply to preparations sold in good faith for diarrhea and cholera, each bottle or package of which is accompanied by specific directions for use and caution against habitual use, nor to liniments or ointments sold in good faith as such when plainly labeled "for external use only," nor to powder of ipecac and opium, commonly known as Dover's powder, when sold in quantities not exceeding twenty grains: *Provided further*, That the provisions of this section shall not be construed to permit the selling, furnishing, giving away, or prescribing for the use of any habitual users of the same any cocaine, salts of cocaine, or preparation containing cocaine or salts of cocaine, or morphine or salts of morphine, or preparations containing morphine or salts of morphine, or any opium or preparation containing opium, or any chloral hydrate or preparation containing chloral hydrate. But this proviso shall not be construed to prevent any recognized or reputable practitioner of medicine whose permanent allegiance is due to the United States from furnishing in good faith for the use of any habitual user of narcotic drugs who is under his professional care such substances as he may deem necessary for their treatment, when such prescriptions are not given or substances furnished for the purpose of evading the provisions of this section. But the provisions of this section shall not apply to sales at wholesale between jobbers, manufacturers, and retail druggists, hospitals, and scientific or public institutions.

SEC. 7. That it shall be unlawful for any person, firm, or corporation whose permanent allegiance is due to the United States to sell or deliver to any other person any of the following-described substances, or any poisonous compound, combination, or preparation thereof, to wit: The compounds of and salts of antimony, arsenic, barium, chromium, copper, gold, lead, mercury, silver, and zinc, the caustic hydrates of sodium and potassium, solution or water of ammonia, methyl alcohol, paregoric, the concentrated mineral acids, oxalic and hydrocyanic acids and their salts, yellow phosphorus, Paris green, carbolic acid, the essential oils of almonds, pennyroyal, tansy, rue, and savin; croton oil, creosote, chloroform, cantharides, or aconite, belladonna, bitter almonds, colchicum, cotton root, cocculus indicus, conium, cannabis indica, digitalis, ergot, hyoscyamus, ignatia, lobelia, nux vomica, physostigma, phytolacca, strophanthus, stramonium, veratrum viride, or any of the poisonous alkaloids or alkaloidal salts derived from the foregoing, or any other poisonous alkaloids or their salts, or any other virulent poison, except in the manner following, and, moreover, if the applicant be less than eighteen years of age, except upon the written order of a person known or believed to be an adult.

It shall first be learned, by due inquiry, that the person to whom delivery is about to be made is aware of the poisonous character of the substance and that it is desired for a lawful purpose, and the box, bottle, or other package shall be plainly labeled with the name of the substance, the word "Poison," the name of at least one suitable antidote, when practicable, and the name and address of the person, firm, or corporation dispensing the substance. And before delivery be made of any of the foregoing substances, excepting solution or water of ammonia and sulphate of copper, there shall be recorded in a book kept for that purpose the name of the article, the quantity delivered, the purpose for which it is to be used, the date of delivery, the name and address of the person for whom it is procured, and the name of the individual personally dispensing the same; and said

book shall be preserved by the owner thereof for at least three years after the date of the last entry therein. The foregoing provisions shall not apply to articles dispensed upon the order of persons believed by the dispenser to be recognized and reputable practitioners of medicine, dentistry, or veterinary surgery:

Provided, That when a physician writes upon his prescription a request that it be marked or labeled "Poison" the pharmacist shall, in the case of liquids, place the same in a colored glass, roughened bottle, of the kind commonly known in trade as a "poison bottle," and, in the case of dry substances, he shall place a poison label upon the container. The record of sale and delivery above mentioned shall not be required of manufacturers and wholesalers who shall sell any of the foregoing substances at wholesale to licensed pharmacists, but the box, bottle, or other package containing such substance, when sold at wholesale, shall be properly labeled with the name of the substance, the word "Poison," and the name and address of the manufacturer or wholesaler: *Provided further*, That it shall not be necessary, in sales either at wholesale or at retail, to place a poison label upon, nor to record the delivery of, the sulphide of antimony, or the oxide or carbonate of zinc, or of colors ground in oil and intended for use as paints, or calomel; nor in the case of preparations containing any of the substances named in this section, when a single box, bottle, or other package, or when the bulk of one-half fluid ounce or the weight of one-half avoirdupois ounce does not contain more than an adult medicinal dose of such substance; nor, in the case of liniments or ointments sold in good faith as such, when plainly labeled "For external use only"; nor, in the case of preparations put up and sold in the form of pills, tablets, or lozenges, containing any of the substances enumerated in this section and intended for internal use, when the dose recommended does not contain more than one-fourth of an adult medicinal dose of such substance.

For the purpose of this and of every other section of this Act no box, bottle, or other package shall be regarded as having been labeled "Poison" unless the word "Poison" appears conspicuously thereon, printed in plain, uncondensed gothic letters in red ink.

SEC. 8. That no person, firm, or corporation whose permanent allegiance is due to the United States seeking to procure in the consular districts of the United States in China any substance the sale of which is regulated by the provisions of this Act shall make any fraudulent representations so as to evade or defeat the restrictions herein imposed.

SEC. 9. That every person, firm, or corporation whose permanent allegiance is due to the United States owning, partly owning, or managing a drug store or pharmacy shall keep in his place of business a suitable book or file, in which shall be preserved for a period of not less than three years the original of every prescription compounded or dispensed at such store or pharmacy, or a copy of such prescription, except when the preservation of the original is required by section six of this Act. Upon request the owner, part owner, or manager of such store shall furnish to the prescribing physician, or to the person for whom such prescription was compounded or dispensed, a true and correct copy thereof. Any prescription required by section six of this Act, and any prescription for, or register of sales of, substances mentioned in section six of this Act shall at all times be open to inspection by duly authorized consular officers in the consular districts of the United States in China. No person, firm, or corporation whose permanent allegiance is due to the United States shall, in a consular district, compound or dispense any drug or drugs or deliver the same to any other person without marking on the container thereof the name of the drug or drugs contained therein and directions for using the same.

SEC. 10. That it shall be unlawful for any person whose permanent allegiance is due to the United States, not legally licensed as a pharmacist, to take, use, or exhibit the title of pharmacist, or licensed or registered pharmacist, or the title of druggist or apothecary, or any other title or description of like import.

SEC. 11. That any person, firm, or corporation, whose permanent allegiance is due to the United States, violating any of the provisions of this Act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$50 and not more than \$100 or by imprisonment for not less than one month and not more than sixty days, or by both such fine and imprisonment, in the discretion of the court, and if the offense be continuing in its character each week or part of a week during which it continues shall constitute a separate and distinct offense. And it shall be the duty of the consular and judicial officers of the United States in China to enforce the provisions of this Act.

SEC. 12. That the word "Consul" as used in this Act shall mean the consular officer in charge of the district concerned.

SEC. 13. That nothing in this Act shall be construed as modifying or revoking any of the provisions of the Act of Congress of February twenty-third, eighteen hundred and eighty-seven, entitled "An Act to provide for the execution of the provisions of article second of the treaty concluded between the United States of America and the Emperor of China on the seventeenth day of November, eighteen hundred and eighty, and proclaimed by the President of the United States the fifth day of October, eighteen hundred and eighty-one."

Mar. 4, 1915, ch. 144 (part), 38 Stat.
1102

Omitted

Provided, That hereafter no certificate of results of any such inspection shall issue unless the owner or his agent shall first pay to the Secretary of Agriculture, at a price to be determined and established by the Secretary, the actual cost of the inspection, the money received to be deposited in the Treasury of the United States as miscellaneous receipts.

Aug. 10, 1917, ch. 52, § 9, 40 Stat. 275----- Omitted

SEC. 9. That the Act of August thirtieth, eighteen hundred and ninety, entitled "An Act providing for an inspection of meats for exportation, prohibiting the importation of adulterated articles of food or drink, and authorizing the President to make proclamation in certain cases, and for other purposes" (Twenty-sixth Statutes at Large, page four hundred and fourteen), is hereby amended so as to authorize the Secretary of Agriculture, within his discretion and under such joint regulations as may be prescribed by the Secretary of Agriculture and the Secretary of the Treasury, to permit the admission for immediate slaughter at ports of entry of tick-infested cattle which are otherwise free from disease and which have not been exposed to the infection of any other disease within sixty days next before their exportation from Mexico, South and Central America, the islands of the Gulf of Mexico and the Caribbean Sea into those parts of the United States below the southern cattle quarantine line at such ports of entry as may be designated by said joint regulations and also subject to the provisions of sections seven, eight, nine, and ten of said Act of August thirtieth, eighteen hundred and ninety: *Provided*, That the importation of tick-infested cattle from any country referred to in this section in which foot-and-mouth disease exists, which existence shall be determined by the Secretary of Agriculture, is prohibited: *Provided further*, That all cattle imported under the provisions of this section shall be slaughtered in accordance with the provisions of the Act of June thirtieth, nineteen hundred and six (Thirty-fourth Statutes at Large, page six hundred and seventy-four), commonly called the meat inspection amendment, and the rules and regulations promulgated thereunder by the Secretary of Agriculture, and that their hides shall be disposed of under rules and regulations to be prescribed by the Secretary of Agriculture.

Nov. 21, 1918, ch. 212, § 3, 40 Stat. 1048,
1049

Omitted

SEC. 3. That the Act entitled "An Act to provide further for the national security and defense by stimulating agriculture and facilitating the distribution of agricultural products," approved August tenth, nineteen hundred and seventeen, be, and the same hereby is, amended so as to strike out in section nine, after the words "Caribbean Sea," the following: "into those parts of the United States below the southern cattle quarantine line at such ports of entry as may be designated by said joint regulations and also," so that the section as amended will read as follows:

"SEC. 9. That the Act of August thirtieth, eighteen hundred and ninety, entitled 'An Act providing for an inspection of meats for exportation, prohibiting the importation of adulterated articles of food or drink, and authorizing the President to make proclamation in certain cases, and for other purposes' (Twenty sixth Statutes at Large, page four hundred and fourteen), is hereby amended so as to authorize the Secretary of Agriculture, within his discretion and under such joint regulations as may be prescribed by the Secretary of Agriculture and the Secretary of the Treasury, to permit the admission into the United States for immediate slaughter at ports of entry to be designated in said joint regulations of tick-infested cattle which are otherwise free from disease and which have not been exposed to the infection of any other disease within sixty days next before their exportation from Mexico, South and Central America, the islands of the Gulf of Mexico and the Caribbean Sea, subject to the provisions of sections seven, eight, nine, and ten of said Act of August thirtieth, eighteen hundred and ninety: *Provided*, That the importation of tick-infested cattle from any country referred

to in this section in which foot-and-mouth disease exists, which existence shall be determined by the Secretary of Agriculture, is prohibited: *Provided further*, That all cattle imported under the provisions of this section shall be slaughtered in accordance with the provisions of the Act of June thirtieth, nineteen hundred and six (Thirty-fourth Statutes at Large, page six hundred and seventy-four), commonly called the meat-inspection amendment, and the rules and regulations promulgated thereunder by the Secretary of Agriculture, and that their hides shall be disposed of under rules and regulations to be prescribed by the Secretary of Agriculture: *And provided further*, That the slaughter of all such cattle imported into the Territory of Porto Rico may be deferred for such time and under such restrictions as the Secretary of Agriculture may by regulation prescribe, and that the Secretary of Agriculture, within his discretion and under such joint regulations as may be prescribed by the Secretary of Agriculture and the Secretary of the Treasury, may permit the exportation of tick-infested cattle from the Virgin Islands to Porto Rico when said cattle are otherwise free from disease."

July 24, 1919, ch. 26 (part), 41 Stat.
241

T. 21, § 511

And, hereafter, no person, firm, or corporation or officer, agent, or employee thereof shall transport or offer for transportation, and no carrier of interstate or foreign commerce, shall transport or receive for transportation from one State or Territory or the District of Columbia to any other State or Territory or the District of Columbia or to any place under the jurisdiction of the United States or to any foreign country any of such meat or food products thereof unless plainly and conspicuously labeled, marked, branded or tagged "Horse-meat" or "Horse-meat Product" as the case may be, under such rules and regulations as may be prescribed by the Secretary of Agriculture. All the penalties, terms and provisions in said Act, as amended, except the exemption therein applying to animals slaughtered by any farmer on a farm, to retail butchers and retail dealers in meat food products supplying their customers are hereby made applicable to horses, their carcasses, parts of carcasses and meat food products thereof, and the establishments and other places where such animals are slaughtered or the meat or meat food products thereof are prepared or packed for the interstate or foreign commerce, and to all persons, firms, corporations and officers, agents and employees thereof who slaughter such animals or prepare or handle such meat or meat food products for interstate or foreign commerce.

July 24, 1919, ch. 26 (part), 41 Stat.
271

T. 21, § 41

That the word "package" where it occurs the second and last time in the act entitled "An act to amend section 8 of an act entitled, 'An act for preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes,'" approved March 3, 1913, shall include and shall be construed to include wrapped meats inclosed in papers or other materials as prepared by the manufacturers thereof for sale.

May 31, 1920, ch. 217 (part), 41 Stat.
699

T. 21, § 563

And provided further, That the Act approved May 29, 1884 (Twenty-third Statutes at Large, page 31), be, and the same is hereby, amended to permit hereafter cattle which have reacted to the tuberculin test to be shipped, transported or moved from one State, Territory, or the District of Columbia, to any other State, Territory, or the District of Columbia, for immediate slaughter, in accordance with such rules and regulations as shall be prescribed by the Secretary of Agriculture: *And provided further*, That hereafter the Secretary of Agriculture may, in his discretion, and under such rules and regulations as he may prescribe, permit cattle which have been shipped for breeding or feeding purposes from one State, Territory, or the District of Columbia, to another State, Territory, or the District of Columbia, and which have reacted to the tuberculin test subsequent to such shipment, to be reshipped in interstate commerce to the original owner;

May 31, 1920, ch. 217 (part), 41 Stat.
712, 713

T. 21, §§ 3, 4, 261-263, 265-270

The Secretary of Agriculture shall, from and after the taking effect of this Act, execute and perform all the powers and duties conferred on the Secretary of the Treasury by the Act approved March 2, 1897 (Twenty-ninth Statutes at Large, page 604), entitled "An Act to prevent the importation of impure and unwhole-

some tea," as amended by the Act approved May 16, 1908 (Thirty-fifth Statutes at Large, page 163), entitled "An Act to amend an Act entitled 'An Act to prevent the importation of impure and unwholesome tea,' approved March 2, 1897": *Provided*, That the bonds given to the United States as security in pursuance of section 1, as amended, shall be subject to the approval only of the collector of customs at the port of entry; that in place of the Board of United States General Appraisers provided for by section 6 of the Act, there shall be designated by the Secretary of Agriculture three employees of the Department of Agriculture to serve as the United States Board of Tea Appeals with all the powers and duties conferred by the Act on the Board of United States General Appraisers.

Mar. 4, 1923, ch. 262, §§ 1-3, 42 Stat.
1486, 1487

T. 21, §§ 221, 222, 224

That whenever used in this Act—

(a) The term "person" includes an individual, partnership, corporation, or association;

(b) The term "interstate or foreign commerce" means commerce (1) between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; (2) between points within the same State, Territory, or possession, or within the District of Columbia, but through any place outside thereof; or (3) within any Territory or possession, or within the District of Columbia; and

(c) The term "filled milk" means any milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat, so that the resulting product is in imitation or semblance of milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated. This definition shall not include any distinctive proprietary food compound not readily mistaken in taste for milk or cream or for evaporated, condensed, or powdered milk, or cream: *Provided*, That such compound (1) is prepared and designed for feeding infants and young children and customarily used on the order of a physician; (2) is packed in individual cans containing not more than sixteen and one-half ounces and bearing a label in bold type that the content is to be used only for said purpose; (3) is shipped in interstate or foreign commerce exclusively to physicians, wholesale and retail druggists, orphan asylums, child-welfare associations, hospitals, and similar institutions and generally disposed of by them.

SEC. 2. It is hereby declared that filled milk, as herein defined, is an adulterated article of food, injurious to the public health, and its sale constitutes a fraud upon the public. It shall be unlawful for any person to manufacture within any Territory or possession, or within the District of Columbia, or to ship or deliver for shipment in interstate or foreign commerce, any filled milk.

SEC. 3. Any person violating any provision of this Act shall upon conviction thereof be subject to a fine of not more than \$1,000 or imprisonment of not more than one year, or both; except that no penalty shall be enforced for any such violation occurring within thirty days after this Act becomes law. When construing and enforcing the provisions of this Act, the act, omission or failure of any person acting for or employed by any individual, partnership, corporation, or association, within the scope of his employment or office, shall in every case be deemed the act, omission, or failure, of such individual, partnership, corporation, or association, as well as of such person.

Mar. 4, 1923, ch. 262, § 4, as added Aug.
27, 1935, ch. 743, 49 Stat. 885

T. 21, § 223

The Secretary of Agriculture is hereby authorized and directed to make and enforce such regulations as may in his judgment be necessary to carry out the purposes of this Act.

Mar. 4, 1923, ch. 268, 42 Stat. 1500----- T. 21, § 41

That for the purposes of the Food and Drug Act of June 30, 1906 (Thirty-fourth Statutes at Large, page 768), "butter" shall be understood to mean the food product usually known as butter, and which is made exclusively from milk or cream, or both, with or without common salt, and with or without additional coloring matter, and containing not less than 80 per centum by weight of milk fat, all tolerances having been allowed for.

June 28, 1926, ch. 700, §§ 1, 2, 44 Stat.
774, 775

T. 21, §§ 563, 567, 573

That the proviso in section 6 of the Act of May 29, 1884, entitled "An Act for the establishment of a Bureau of Animal Industry, and so forth," be, and the same is hereby, repealed so that section 6, as amended, will read as follows:

"That no railroad company within the United States, or the owners or masters of any steam or sailing or other vessel or boat, shall receive for transportation or transport from one State or Territory to another, or from any State into the District of Columbia, or from the District into any State, any livestock affected with any contagious, infectious, or communicable disease, and especially the disease known as pleuropneumonia; nor shall any person, company, or corporation deliver for such transportation to any railroad company, or master or owner of any boat or vessel, any livestock, knowing them to be affected with any contagious, infectious, or communicable disease; nor shall any person, company, or corporation drive on foot, or transport in private conveyance from one State or Territory to another, or from any State into the District of Columbia, or from the District into any State, any livestock, knowing them to be affected with any contagious, infectious, or communicable disease, and especially the disease known as pleuropneumonia": *Provided*, That until May 1, 1928, cattle infested with or exposed to cattle fever ticks may be shipped in interstate commerce for immediate slaughter after one dipping in accordance with such regulations as the Secretary of Agriculture may prescribe.

SEC. 2. That section 6, chapter 839, "An Act providing for the inspection of meats for exportation, prohibiting the importation of adulterated articles of food and drink, and authorizing the President to make proclamation in certain cases, and for other purposes," approved August 30, 1890, be amended to hereafter read as follows:

"That the importation of meat, cattle, sheep, and other ruminants, and swine, which are diseased or infected with any disease, or which shall have been exposed to such infection within sixty days next before their importation, is hereby prohibited: *Provided*, That the Secretary of Agriculture within his discretion and under such regulations as he may prescribe, is authorized to permit the admission from Mexico into the State of Texas of cattle which have been infested with or exposed to ticks upon being freed therefrom. Any person who shall knowingly violate the foregoing provision shall be deemed guilty of a misdemeanor and shall, on conviction, be punished by a fine not exceeding \$5,000, or by imprisonment not exceeding three years, and any vessel or vehicle used in such unlawful importation within the knowledge of the master or owner of such vessel or vehicle that such importation is diseased or has been exposed to infection as herein described, shall be forfeited to the United States."

Jan. 18, 1927, ch. 39 (part), 44 Stat. 984

Omitted

Provided, That the Department of Agriculture may upon request of any branch of the Federal Government perform inspections of food and other products and receive reimbursement of the cost of such inspections, including salaries and expenses, out of appropriations available therefor.

Feb. 15, 1927, ch. 155, §§ 1-5, 44 Stat. 1101-1103

T. 21, §§ 202-205

That on and after the date on which this Act takes effect the importation into the United States of milk and cream is prohibited unless the person by whom such milk or cream is shipped or transported into the United States holds a valid permit from the Secretary of Agriculture.

SEC. 2. Milk or cream shall be considered unfit for importation (1) when all cows producing such milk or cream are not healthy and a physical examination of all such cows has not been made within one year previous to such milk being offered for importation; (2) when such milk or cream, if raw, is not produced from cows which have passed a tuberculin test applied by a duly authorized official veterinarian of the United States, or of the country in which such milk or cream is produced, within one year previous to the time of the importation, showing that such cows are free from tuberculosis; (3) when the sanitary conditions of the dairy farm or plant in which such milk or cream is produced or handled do not score at least fifty points out of one hundred points according to the methods for scoring as provided by the score cards used by the Bureau of Dairy Industry of the United States Department of Agriculture at the time such dairy farms or plants are scored; (4) in the case of raw milk if the number of bacteria per cubic centimeter exceeds three hundred thousand and in the case of raw cream seven hundred and fifty thousand, in the case of pasteurized milk if the number of bacteria per cubic centimeter exceeds one hundred thousand, and in the case of

pasteurized cream five hundred thousand; (5) when the temperature of milk or cream at the time of importation exceeds fifty degrees Fahrenheit.

SEC. 3. The Secretary of Agriculture shall cause such inspections to be made as are necessary to insure that milk and cream are so produced and handled as to comply with the provisions of section 2 of this Act, and in all cases when he finds that such milk and/or cream is produced and handled so as not to be unfit for importation under clauses 1, 2, and 3 of section 2 of this Act, he shall issue to persons making application therefor permits to ship milk and/or cream into the United States: *Provided*, That in lieu of the inspections to be made by or under the direction of the Secretary of Agriculture he may, in his discretion, accept a duly certified statement signed by a duly accredited official of an authorized department of any foreign government and/or of any State of the United States or any municipality thereof that the provisions in clauses 1, 2, and 3 of section 2 of this Act have been complied with. Such certificate of the accredited official of an authorized department of any foreign government shall be in the form prescribed by the Secretary of Agriculture, who is hereby authorized and directed to prescribe such form, as well as rules and regulations regulating the issuance of permits to import milk or cream into the United States.

The Secretary of Agriculture is hereby authorized, in his discretion, to waive the requirement of section 2, paragraph 4, of this Act when issuing permits to operators of condenseries in which milk and/or cream is used when sterilization of the milk and/or cream is a necessary process: *Provided, however*, That no milk and/or cream shall be imported whose bacterial count per cubic centimeter in any event exceeds one million two hundred thousand: *Provided further*, That such requirements shall not be waived unless the farm producing such milk to be imported is within a radius of fifteen miles of the condenser in which it is to be processed: *Provided further*, That if milk and/or cream imported when the requirements of section 2, paragraph 4, have been so waived, is sold, used or disposed of in its raw state or otherwise than as condensed milk by any person, the permit shall be revoked and the importer shall be subject to fine, imprisonment, or other penalty prescribed by this Act.

The Secretary of Agriculture is directed to waive the requirements of paragraphs 2 and 5 of section 2 of this Act insofar as the same relate to milk when issuing permits to operators of, or to producers for delivery to, creameries and condensing plants in the United States within twenty miles of the point of production of the milk, and who import no raw milk except for pasteurization or condensing: *Provided*, That if milk imported when the requirements of paragraphs 2 and 5 of section 2 have been so waived is sold, used, or disposed of in its raw state, or otherwise than as pasteurized, condensed, or evaporated milk by any person, the permit shall be revoked and the importer shall be subjected to fine, imprisonment, or other penalty prescribed by this Act.

The Secretary of Agriculture is hereby authorized and directed to make and enforce such regulations as may in his judgment be necessary to carry out the purpose of this Act for the handling of milk and cream, for the inspection of milk, cream, cows, barns, and other facilities used in the production and handling of milk and/or cream and the handling, keeping, transporting, and importing of milk and/or cream: *Provided, however*, That unless and until the Secretary of Agriculture shall provide for inspections to ascertain that paragraphs 1, 2, and 3 of section 2 have been complied with, the Secretary of Agriculture shall issue temporary permits to any applicants therefor to ship or transport milk and/or cream into the United States.

The Secretary of Agriculture is authorized to suspend or revoke any permit for the shipment of milk or cream into the United States when he shall find that the holder thereof has failed to comply with the provisions of or has violated this Act or any of the regulations made hereunder, or that the milk and/or cream brought or shipped by the holder of such permit into the United States is not produced and handled in conformity with, or that the quality thereof does not conform to, all of the provisions of section 2 of this Act.

SEC. 4. It shall be unlawful for any person in the United States to receive milk or cream imported into the United States unless the importation is in accordance with the provisions of this Act.

SEC. 5. Any person who knowingly violates any provision of this Act shall, in addition to all other penalties prescribed by law, be punished by a fine of not less than \$50 nor more than \$2,000, or by imprisonment for not more than one year, or by both such fine and imprisonment.

Feb. 15, 1927, ch. 155, §§ 6, 7, 44 Stat.

Omitted

SEC. 6. There is hereby authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, the sum of \$50,000 per annum, to enable the Secretary of Agriculture to carry out the provisions of this Act.

SEC. 7. Any laws or parts of laws inconsistent herewith are hereby repealed.

Feb. 15, 1927, ch. 155, §§ 8, 9, 44 Stat.
1103

T. 21, §§ 201, 206

SEC. 8. Nothing in this Act is intended nor shall be construed to affect the powers of any State, or any political subdivision thereof, to regulate the shipment of milk or cream into, or the handling, sale, or other disposition of milk or cream in, such State or political subdivision after the milk and/or cream shall have been lawfully imported under the provisions of this Act.

SEC. 9. When used in this Act—

(a) The term "person" means an individual, partnership, association, or corporation.

(b) The term "United States" means continental United States.

SEC. 10. This Act shall take effect upon the expiration of ninety days from the date of its enactment.

Mar. 4, 1927, ch. 489, §§ 1-9, 44 Stat.
1406-1410

T. 21, §§ 311-318, 320

That this Act may be cited as the Federal Caustic Poison Act.

SEC. 2. As used in this Act, unless the context otherwise requires—

(a) The term "dangerous caustic or corrosive substance" means:

(1) Hydrochloric acid and any preparation containing free or chemically unneutralized hydrochloric acid (HCl) in a concentration of 10 per centum or more;

(2) Sulphuric acid and any preparation containing free or chemically unneutralized sulphuric acid (H₂SO₄) in a concentration of 10 per centum or more;

(3) Nitric acid or any preparation containing free or chemically unneutralized nitric acid (HNO₃) in a concentration of 5 per centum or more;

(4) Carboic acid (C₆H₅OH), otherwise known as phenol, and any preparation containing carboic acid in a concentration of 5 per centum or more;

(5) Oxalic acid and any preparation containing free or chemically unneutralized oxalic acid (H₂C₂O₄) in a concentration of 10 per centum or more;

(6) Any salt of oxalic acid and any preparation containing any such salt in a concentration of 10 per centum or more;

(7) Acetic acid or any preparation containing free or chemically unneutralized acetic acid (HC₂H₃O₂) in a concentration of 20 per centum or more;

(8) Hypochlorous acid, either free or combined, and any preparation containing the same in a concentration so as to yield 10 per centum or more by weight of available chlorine, excluding calx chlorinata, bleaching powder, and chloride of lime;

(9) Potassium hydroxide and any preparation containing free or chemically unneutralized potassium hydroxide (KOH), including caustic potash and Vienna paste, in a concentration of 10 per centum or more;

(10) Sodium hydroxide and any preparation containing free or chemically unneutralized sodium hydroxide (NaOH), including caustic soda and lye, in a concentration of 10 per centum or more;

(11) Silver nitrate, sometimes known as lunar caustic, and any preparation containing silver nitrate (AgNO₃) in a concentration of 5 per centum or more; and

(12) Ammonia water and any preparation containing free or chemically uncombined ammonia (NH₃), including ammonium hydroxide and "hartshorn," in a concentration of 5 per centum or more.

(b) The term "misbranded parcel, package, or container" means a retail parcel, package, or container of any dangerous caustic or corrosive substance not bearing a conspicuous, easily legible label or sticker, containing—

(1) The common name of the substance;

(2) The name and place of business of the manufacturer, packer, seller, or distributor;

(3) The word "poison," running parallel with the main body of reading matter on the label or sticker, on a clear, plain background of a distinctly contrasting color, in uncondensed gothic capital letters, the letters to be not less than twenty-four point size unless there is on the label or sticker no other type so large, in which event the type shall be not smaller than the largest type on the label or sticker; and

(4) Directions for treatment in case of accidental personal injury by any dangerous caustic or corrosive substance, except that such directions need not

appear on labels or stickers, on parcels, packages, or containers at the time of shipment or of delivery for shipment by manufacturers and wholesalers for other than household use.

(c) The term "interstate or foreign commerce" means commerce between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; or between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof, or within any Territory or possession, or the District of Columbia.

(d) This Act is not to be construed as modifying or limiting in any way the right of any person to manufacture, pack, ship, sell, barter, and distribute dangerous caustic or corrosive substances in parcels, packages, or containers, labeled as required by this Act.

SEC. 3. No person shall ship or deliver for shipment in interstate or foreign commerce or receive from shipment in such commerce any dangerous caustic or corrosive substance for sale or exchange, or sell or offer for sale any such substance in any Territory or possession or in the District of Columbia, in a misbranded parcel, package, or container suitable for household use; except that the preceding provisions of this section shall not apply—

(a) To any regularly established common carrier shipping or delivering for shipment, or receiving from shipment, any such substance in the ordinary course of its business as a common carrier; nor

(b) To any person in respect of any such substance shipped or delivered for shipment, or received from shipment, for export to any foreign country, in a parcel, package, or container branded in accordance with the specifications of a foreign purchaser and in accordance with the laws of the foreign country.

(c) To any dealer when he can establish a guaranty signed by the wholesaler, jobber, manufacturer, or other party residing in the United States, from whom he purchases such articles, to the effect that the article is not misbranded within the meaning of this Act. This guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of such article to such dealer, and in such case said party or parties shall be amenable to the prosecutions, fines, and other penalties which would attach, in due course, to the dealer under the provisions of this Act.

SEC. 4. (a) Any dangerous caustic or corrosive substance in a misbranded parcel, package, or container suitable for household use shall be liable to be proceeded against in the district court of the United States for any judicial district in which the substance is found and to be seized for confiscation by a process of libel for condemnation, if such substance is being—

(1) Shipped in interstate or foreign commerce, or

(2) Held for sale or exchange after having been so shipped, or

(3) Held for sale or exchange in any Territory or possession or in the District of Columbia.

(b) If such substance is condemned as misbranded by the court it shall be disposed of in the discretion of the court—

(1) By destruction.

(2) By sale. The proceeds of the sale, less legal costs and charges, shall be paid into the Treasury as miscellaneous receipts. Such substance shall not be sold in any jurisdiction contrary to the provisions of this Act or the laws of such jurisdiction, and the court may require the purchaser at any such sale to label such substance in compliance with law before the delivery thereof.

(3) By delivery to the owner thereof upon the payment of legal costs and charges and execution and delivery of a good and sufficient bond to the effect that such substance will not be sold or otherwise disposed of in any jurisdiction contrary to the provisions of this Act or the laws of such jurisdiction.

(c) Proceedings in such libel cases shall conform, as nearly as may be, to suits in rem in admiralty, except that either party may demand trial by jury on any issue of fact if the value in controversy exceeds \$20. In case of a jury trial the verdict of the jury shall have the same effect as a finding of the court upon the facts. All such proceedings shall be at the suit and in the name of the United States.

SEC. 5. (a) Whenever in the case of any dangerous caustic or corrosive substance being offered for importation the Secretary of Agriculture has reason to believe that such substance is being shipped in interstate or foreign commerce in violation of section 3, he shall give due notice and opportunity for hearing thereon to the owner or consignee and certify such fact to the Secretary of the Treasury, who shall thereupon (1) refuse admission and delivery to the consignee of such substance, or (2) deliver such substance to the consignee pending examination, hearing, and decision in the matter, on the execution of a penal bond to the

amount of the full invoice value of such substance, together with the duty thereon, if any, and to the effect that on refusal to return such substance for any cause to the Secretary of the Treasury when demanded, for the purpose of excluding it from the country or for any other purpose, the consignee shall forfeit the full amount of the bond.

(b) If, after proceeding in accordance with subdivision (a), the Secretary of Agriculture is satisfied that such substance being offered for importation was shipped in interstate or foreign commerce in violation of any provision of this Act, he shall certify the fact to the Secretary of the Treasury, who shall thereupon notify the owner or consignee and cause the sale or other disposition of such substance refused admission and delivery or entered under bond, unless it is exported by the owner or consignee or labeled by him so as to conform to the law within three months from the date of such notice, under such regulations as the Secretary of the Treasury may prescribe. All charges for storage, cartage, or labor on any such substance refused admission or delivery or entered upon bond shall be paid by the owner or consignee. In default of such payment such charges shall constitute a lien against any future importations made by such owner or consignee.

SEC. 6. No person shall alter, mutilate, destroy, obliterate, or remove any label or sticker required by this Act to be placed on any dangerous caustic or corrosive substance, if such substance is being—

- (a) Shipped in interstate or foreign commerce; or
- (b) Held for sale or exchange after having been so shipped; or
- (c) Held for sale or exchange in any Territory or possession or by the District of Columbia.

SEC. 7. Any person violating any provision of section 3 or 6 shall upon conviction thereof be punished by a fine of not more than \$200 or imprisonment for not more than ninety days, or by both.

SEC. 8. It shall be the duty of each United States district attorney to whom the Secretary of Agriculture shall report any violation of section 3 or 6 of this Act or to whom any health, medical, or drug officer or agent of any State, Territory, or possession, or of the District of Columbia presents satisfactory evidence of any such violation, to cause libel for condemnation and criminal proceedings under sections 4 and 7 to be commenced and prosecuted in the proper courts of the United States, without delay, for the enforcement of the condemnation and penalties provided in such sections.

SEC. 9. (a) Except as otherwise specifically provided in this Act, the Secretary of Agriculture shall enforce its provisions.

(b) For enforcing the provisions of sections 4, 5, and 7, the Secretary of Agriculture may cause investigations, inspections, analyses, and tests to be made and samples to be collected, of any dangerous caustic or corrosive substance. The Department of Agriculture shall pay to the person entitled, upon his request, the reasonable market value of any such sample taken. If it appears from the inspection, analysis, or test of any dangerous caustic or corrosive substance that such substance is in a misbranded package, parcel, or container suitable for household use, the Secretary of Agriculture shall cause notice thereof to be given to any person who may be liable for any violation of section 3 or 6 in respect of such substance. Any person so notified shall be given an opportunity to be heard under regulations prescribed by the Secretary of Agriculture. If it appears that such person has violated the provisions of section 3 or 6 the Secretary of Agriculture shall at once certify the facts to the proper United States district attorney, with a copy of the results of the inspection, analysis, or test duly authenticated under oath by the person making such inspection, analysis, or test.

(c) For the enforcement of his functions under this Act the Secretary of Agriculture is authorized—

- (1) To prescribe and promulgate such regulations as may be necessary.
- (2) To cooperate with any department or agency of the Government, with any State, Territory, or possession, or with the District of Columbia, or with any department, agency, or political subdivision thereof, or with any person.
- (3) Subject to the civil service laws to appoint and, in accordance with the Classification Act of 1923, to fix the salaries of such officers and employees as may be required for the execution of the functions of the Secretary of Agriculture under this Act and as may be provided for by the Congress from time to time.
- (4) To make such expenditures (including expenditures for personal services and rent at the seat of government and elsewhere, and for law books, books of reference, and periodicals) as may be required for the execution of the functions vested in the Secretary of Agriculture by this Act and as may be provided for by the Congress from time to time.

(5) To give notice, by publication in such manner as the Secretary of Agriculture may by regulation prescribe, of the judgment of the court in any case under the provisions of this Act.

Mar. 4, 1927, ch. 489, §§ 10, 11, 44
Stat. 1410

Omitted

SEC. 10. If any provision of this Act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the Act and the applicability thereof to other persons and circumstances shall not be affected thereby.

SEC. 11. This Act shall take effect upon its passage; but no penalty or condemnation shall be enforced for any violation of the Act occurring within six months after its passage.

Mar. 4, 1927, ch. 489, § 12, 44 Stat. 1410----- T. 21, § 319

SEC. 12. The provisions of this Act shall be held to be in addition to and not in substitution for the provisions of the following Acts:

(a) The Food and Drugs Act, approved June 30, 1906, as amended.

(b) The Insecticide Act of 1910, as amended.

(c) The Act entitled "An Act to regulate the practice of pharmacy and the sale of poisons in the District of Columbia, and for other purposes," approved May 7, 1906, as amended.

Feb. 7, 1928, ch. 30, 45 Stat. 59----- T. 21, §§ 551, 552, 554, 558-562, 565,
571-574

That the Act entitled "An Act for the establishment of a Bureau of Animal Industry, to prevent the exportation of diseased cattle, and to provide means for the suppression and extirpation of pleuro-pneumonia and other contagious diseases among domestic animals," approved May 29, 1884, as amended, the Act entitled "An Act to enable the Secretary of Agriculture to more effectually suppress and prevent the spread of contagious and infectious diseases of livestock and for other purposes," approved February 2, 1903, and the Act entitled "An Act to enable the Secretary of Agriculture to establish and maintain quarantine districts, to permit and regulate the movement of cattle and other livestock therefrom, and for other purposes," approved March 3, 1905, as amended, are hereby further amended to include within their provisions live poultry, and wherever in the said Act the term "livestock" is used it shall be followed by the words "and/or live poultry"; and all the penalties, terms, and provisions in said Acts, as amended, are hereby made applicable to live poultry.

May 16, 1928, ch. 572 (part), 45 Stat.
548

Omitted

Provided, That the Department of Agriculture may, upon request of any branch of the Federal Government, perform inspections of food and other products and receive reimbursement of the cost of such inspections, including salaries and expenses, out of appropriations available therefor.

Feb. 16, 1929, ch. 227 (part), 45 Stat.
1198

Omitted

Provided, That the Department of Agriculture may, upon request of any branch of the Federal Government, perform inspections of food and other products and receive reimbursement of the cost of such inspections, including salaries and expenses, out of appropriations available therefor.

June 14, 1930, ch. 488, §§ 6, 7, 8, 46 Stat.
587

T. 21, §§ 712, 713, 763

SEC. 6. In addition to the amount of coca leaves which may be imported under section 2 (b) of the Narcotic Drugs Import and Export Act, the Commissioner of Narcotics is authorized to permit, in accordance with regulations issued by him, the importation of additional amounts of coca leaves: *Provided*, That after the entry thereof into the United States all cocaine, ecgonine, and all salts, derivatives, and preparations from which cocaine or ecgonine may be synthesized or made, contained in such additional amounts of coca leaves, shall be destroyed under the supervision of an authorized representative of the Commissioner of Narcotics. All coca leaves imported under this section shall be subject to the duties which are now or may hereafter be imposed upon such coca leaves when imported.

SEC. 7. The Secretary of the Treasury shall cooperate with the Secretary of State in the discharge of the international obligations of the United States concerning the traffic in narcotic drugs.

SEC. 8. That the Secretary of the Treasury shall cooperate with the several States in the suppression of the abuse of narcotic drugs in their respective jurisdictions, and to that end he is authorized (1) to cooperate in the drafting of such legislation as may be needed, if any, to effect the end named, and (2) to arrange for the exchange of information concerning the use and abuse of narcotic drugs in said States and for cooperation in the institution and prosecution of cases in the courts of the United States and before the licensing boards and courts of the several States. The Secretary of the Treasury is hereby authorized to make such regulations as may be necessary to carry this section into effect.

July 3, 1930, ch. 829, 46 Stat. 850----- T. 21, § 714

That the Commissioner of Narcotics is authorized and empowered to pay to any person, from funds now or hereafter appropriated for the enforcement of the narcotic laws of the United States, for information concerning a violation of any narcotic law of the United States, resulting in a seizure of contraband narcotics, such sum or sums of money as he may deem appropriate, without reference to any moieties or rewards to which such person may otherwise be entitled by law: *Provided*, That all payments under authority of this Act to any informer in any foreign country shall be made only through an accredited consul or vice consul of the United States stationed in such country, and every such payment must be supported by a voucher with an accompanying certificate of the said consul or vice consul that the payment of the amount stated on the voucher has been made to the informer named, and at the place and time specified on said voucher.

Feb. 28, 1931, ch. 348, 46 Stat. 1460----- T. 21, §§ 567, 573

That section 6 of the Act of August 30, 1890 (United States Code, page 631, section 104), as amended by section 2 of the Act of June 28, 1926 (United States Code, Supplement III, page 167, section 104), down to the word "*Provided*" in line 4 thereof, be, and the same is hereby, amended by striking out the word "meat" and the comma thereafter, in the first line, and by striking out the word "importation" in the fourth line and substituting in lieu thereof the word "exportation," so that so much of said section as is hereby amended shall read as follows:

"That the importation of cattle, sheep, and other ruminants, and swine, which are diseased or infected with any disease, or which shall have been exposed to such infection within sixty days next before their exportation, is hereby prohibited."

June 22, 1934, ch. 712, 48 Stat. 1204----- T. 21, § § 57, 151

That the Act entitled "An Act for preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes", approved June 30, 1906, as amended, is amended by adding after section 10 thereof the following new section:

"SEC. 10A. The Secretary of Agriculture, upon application of any packer of any sea food sold in interstate commerce, may at his discretion designate supervisory inspectors to examine and inspect all premises, equipment, methods, materials, containers, and labels used by such applicants in the production of such food. If the food is found to conform to the requirements of this Act, the applicant shall be authorized, in accordance with regulations prescribed by the Secretary of Agriculture, to mark the food so as to indicate such conformity. Services to any applicant under this section shall be rendered only upon payment of fees to be fixed by regulations of the Secretary of Agriculture in such amount as to cover the cost of the supervisory inspection and examination, together with the reasonable costs of administration incurred by the Secretary of Agriculture in carrying out this section. Receipts from such fees shall be covered into the Treasury and shall be available to the Secretary of Agriculture for expenditures incurred in carrying out this section. Any person who forges, counterfeits, simulates, or falsely represents, or without proper authority uses any mark, stamp, tag, label, or other identification devices authorized by the provisions of this section or regulations thereunder, shall be guilty of a misdemeanor, and shall on conviction thereof be subject to imprisonment for not more than one year or a fine of not less than \$1,000 nor more than \$5,000, or both such imprisonment and fine."

June 26, 1934, ch. 756, § 2 (a) (part), 48
Stat. 1225

Omitted

Provided, That in addition to amounts in lieu of the permanent appropriation "Meat Inspection, Bureau of Animal Industry (fiscal year)" there is authorized to be appropriated such other sums as may be necessary in the enforcement of the meat inspection laws (U. S. C., title 21, secs. 71 to 96, inclusive).

June 26, 1934, ch. 756, § 2 (b) (3), 48
Stat. 1225

Omitted

(3) Meat inspection, Bureau of Animal Industry (fiscal year) (3-114).

Aug. 27, 1935, ch. 739, 49 Stat. 871----- T. 21, §§ 57, 151

That section 10A of the Act entitled "An Act for preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes," approved June 30, 1906, as amended, is amended to read as follows:

"SEC. 10A. The Secretary of Agriculture, upon application of any packer of any sea food for shipment or sale within the jurisdiction of this Act, may, at his discretion, designate inspectors to examine and inspect such food and the production, packing, and labeling thereof. If on such examination and inspection compliance is found with the provisions of this Act and regulations promulgated thereunder, the applicant shall be authorized or required to mark the food as provided by regulation to show such compliance. Services under this section shall be rendered only upon payment by the applicant of fees fixed by regulation in such amounts as may be necessary to provide, equip, and maintain an adequate and efficient inspection service. Receipts from such fees shall be covered into the Treasury and shall be available to the Secretary of Agriculture for expenditures incurred in carrying out the purposes of this section, including expenditures for salaries of additional inspectors when necessary to supplement the number of inspectors for whose salaries Congress has appropriated. The Secretary is hereby authorized to promulgate regulations governing the sanitary and other conditions under which the service herein provided shall be granted and maintained, and for otherwise carrying out the purposes of this section. Any person who forges, counterfeits, simulates, or falsely represents, or without proper authority uses any mark, stamp, tag, label, or other identification devices authorized or required by the provisions of this section or regulations thereunder, shall be guilty of a misdemeanor, and shall on conviction thereof be subject to imprisonment for not more than one year or a fine of not less than \$1,000 nor more than \$5,000, or both such imprisonment and fine."

June 25, 1938, ch. 675, §§ 1, 201, 301- T. 21, §§ 41, 44, 51-57, 71-77, 91-94,
367, 401-406, 501-505, 601-604, 701- 111, 112, 131-136, 151-157
706, 801, 52 Stat. 1040-1058.

This Act may be cited as the Federal Food, Drug, and Cosmetic Act.

SEC. 201. For the purposes of this Act—

(a) The term "Territory" means any Territory or possession of the United States, including the District of Columbia and excluding the Canal Zone.

(b) The term "interstate commerce" means (1) commerce between any State or Territory and any place outside thereof, and (2) commerce within the District of Columbia or within any other Territory not organized with a legislative body.

(c) The term "Department" means the Department of Agriculture of the United States.

(d) The term "Secretary" means the Secretary of Agriculture.

(e) The term "person" includes individual, partnership, corporation, and association.

(f) The term "food" means (1) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article.

(g) The term "drug" means (1) articles recognized in the official United States Pharmacopœia, official Homœopathic Pharmacopœia of the United States, or official National Formulary, or any supplement to any of them; and (2) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (3) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and (4) articles intended for use as a component of any article specified in clause (1), (2), or (3); but does not include devices or their components, parts, or accessories.

(h) The term "device" (except when used in paragraph (n) of this section and in sections 301 (i), 403 (f), 502 (c), and 602 (c)) means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended (1) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or (2) to affect the structure or any function of the body of man or other animals.

(i) The term "cosmetic" means (1) articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body

or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) articles intended for use as a component of any such articles; except that such term shall not include soap.

(j) The term "official compendium" means the official United States Pharmacopœia, official Homœopathic Pharmacopœia of the United States, official National Formulary, or any supplement to any of them.

(k) The term "label" means a display of written, printed, or graphic matter upon the immediate container of any article; and a requirement made by or under authority of this Act that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of such article, or is easily legible through the outside container or wrapper.

(l) The term "immediate container" does not include package liners.

(m) The term "labeling" means all labels and other written, printed, or graphic matter (1) upon any article or any of its containers or wrappers, or (2) accompanying such article.

(n) If an article is alleged to be misbranded because the labeling is misleading, then in determining whether the labeling is misleading there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, or any combination thereof, but also the extent to which the labeling fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling relates under the conditions of use prescribed in the labeling thereof or under such conditions of use as are customary or usual.

(o) The representation of a drug, in its labeling, as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or such other use as involves prolonged contact with the body.

(p) The term "new drug" means—

(1) Any drug the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety of drugs, as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof, except that such a drug not so recognized shall not be deemed to be a "new drug" if at any time prior to the enactment of this Act it was subject to the Food and Drugs Act of June 30, 1906, as amended, and if at such time its labeling contained the same representations concerning the conditions of its use; or

(2) Any drug the composition of which is such that such drug, as a result of investigations to determine its safety for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.

SEC. 301. The following acts and the causing thereof are hereby prohibited:

(a) The introduction or delivery for introduction into interstate commerce of any food, drug, device, or cosmetic that is adulterated or misbranded.

(b) The adulteration or misbranding of any food, drug, device, or cosmetic in interstate commerce.

(c) The receipt in interstate commerce of any food, drug, device, or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise.

(d) The introduction or delivery for introduction into interstate commerce of any article in violation of section 404 or 505.

(e) The refusal to permit access to or copying of any record as required by section 703.

(f) The refusal to permit entry or inspection as authorized by section 704.

(g) The manufacture within any Territory of any food, drug, device, or cosmetic that is adulterated or misbranded.

(h) The giving of a guaranty or undertaking referred to in section 303 (c) (2), which guaranty or undertaking is false, except by a person who relied upon a guaranty or undertaking to the same effect signed by, and containing the name and address of, the person residing in the United States from whom he received in good faith the food, drug, device, or cosmetic; or the giving of a guaranty or undertaking referred to in section 303 (c) (3), which guaranty or undertaking is false.

(i) Forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp, tag, label, or other identification device authorized or required by regulations promulgated under the provisions of section 404, 406 (b), 504, or 604.

(j) The using by any person to his own advantage, or revealing, other than to the Secretary or officers or employees of the Department, or to the courts when relevant in any judicial proceeding under this Act, any information acquired under authority of section 404, 505, or 704 concerning any method or process which as a trade secret is entitled to protection.

(k) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to, a food, drug, device, or cosmetic, if such act is done while such article is held for sale after shipment in interstate commerce and results in such article being misbranded.

(l) The using, on the labeling of any drug or in any advertising relating to such drug, of any representation or suggestion that an application with respect to such drug is effective under section 505, or that such drug complies with the provisions of such section.

INJUNCTION PROCEEDINGS

SEC. 302. (a) The district courts of the United States and the United States courts of the Territories shall have jurisdiction, for cause shown, and subject to the provisions of section 17 (relating to notice to opposite party) of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914, as amended (U. S. C., 1934 ed., title 28, sec. 381), to restrain violations of section 301, except paragraphs (e), (f), (h), (i), and (j).

(b) In case of violation of an injunction or restraining order issued under this section, which also constitutes a violation of this Act, trial shall be by the court, or, upon demand of the accused, by a jury. Such trial shall be conducted in accordance with the practice and procedure applicable in the case of proceedings subject to the provisions of section 22 of such Act of October 15, 1914, as amended (U. S. C., 1934 ed., title 28, sec. 387).

PENALTIES

SEC. 303. (a) Any person who violates any of the provisions of section 301 shall be guilty of a misdemeanor and shall on conviction thereof be subject to imprisonment for not more than one year, or a fine of not more than \$1,000, or both such imprisonment and fine; but if the violation is committed after a conviction of such person under this section has become final such person shall be subject to imprisonment for not more than three years, or a fine of not more than \$10,000, or both such imprisonment and fine.

(b) Notwithstanding the provisions of subsection (a) of this section, in case of a violation of any of the provisions of section 301, with intent to defraud or mislead, the penalty shall be imprisonment for not more than three years, or a fine of not more than \$10,000, or both such imprisonment and fine.

(c) No person shall be subject to the penalties of subsection (a) of this section, (1) for having received in interstate commerce any article and delivered it or proffered delivery of it, if such delivery or proffer was made in good faith, unless he refuses to furnish on request of an officer or employee duly designated by the Secretary the name and address of the person from whom he purchased or received such article and copies of all documents, if any there be, pertaining to the delivery of the article to him; or (2) for having violated section 301 (a) or (d), if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person residing in the United States from whom he received in good faith the article, to the effect, in case of an alleged violation of section 301 (a), that such article is not adulterated or misbranded, within the meaning of this Act, designating this Act, or to the effect, in case of an alleged violation of section 301 (d), that such article is not an article which may not, under the provisions of section 404 or 505, be introduced into interstate commerce; or (3) for having violated section 301 (a), where the violation exists because the article is adulterated by reason of containing a coal-tar color not from a batch certified in accordance with regulations promulgated by the Secretary under this Act, if such person establishes a guaranty or undertaking signed by, and containing the name and address of, the manufacturer of the coal-tar color, to the effect that such color was from a batch certified in accordance with the applicable regulations promulgated by the Secretary under this Act.

SEIZURE

SEC. 304. (a) Any article of food, drug, device, or cosmetic that is adulterated or misbranded when introduced into or while in interstate commerce, or which may not, under the provisions of section 404 or 505, be introduced into interstate commerce, shall be liable to be proceeded against while in interstate commerce, or at any time thereafter, on libel of information and condemned in any district court of the United States within the jurisdiction of which the article is found: *Provided, however,* That no libel for condemnation shall be instituted under this Act, for any alleged misbranding if there is pending in any court a libel for condemnation proceeding under this Act based upon the same alleged misbranding, and not more than one such proceeding shall be instituted if no such proceeding is so pending, except that such limitations shall not apply (1) when such misbranding has been the basis of a prior judgment in favor of the United States, in a criminal, injunction, or libel for condemnation proceeding under this Act, or (2) when the Secretary has probable cause to believe from facts found, without hearing, by him or any officer or employee of the Department that the misbranded article is dangerous to health, or that the labeling of the misbranded article is fraudulent, or would be in a material respect misleading to the injury or damage of the purchaser or consumer. In any case where the number of libel for condemnation proceedings is limited as above provided the proceeding pending or instituted shall, on application of the claimant, seasonably made, be removed for trial to any district agreed upon by stipulation between the parties, or, in case of failure to so stipulate within a reasonable time, the claimant may apply to the court of the district in which the seizure has been made, and such court (after giving the United States attorney for such district reasonable notice and opportunity to be heard) shall by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the claimant's principal place of business, to which the case shall be removed for trial.

(b) The article shall be liable to seizure by process pursuant to the libel, and the procedure in cases under this section shall conform, as nearly as may be, to the procedure in admiralty; except that on demand of either party any issue of fact joined in any such case shall be tried by jury. When libel for condemnation proceedings under this section, involving the same claimant and the same issues of adulteration or misbranding, are pending in two or more jurisdictions, such pending proceedings, upon application of the claimant seasonably made to the court of one such jurisdiction, shall be consolidated for trial by order of such court, and tried in (1) any district selected by the claimant where one of such proceedings is pending; or (2) a district agreed upon by stipulation between the parties. If no order for consolidation is so made within a reasonable time, the claimant may apply to the court of one such jurisdiction, and such court (after giving the United States attorney for such district reasonable notice and opportunity to be heard) shall by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the claimant's principal place of business, in which all such pending proceedings shall be consolidated for trial and tried. Such order of consolidation shall not apply so as to require the removal of any case the date for trial of which has been fixed. The court granting such order shall give prompt notification thereof to the other courts having jurisdiction of the cases covered thereby.

(c) The court at any time after seizure up to a reasonable time before trial shall by order allow any party to a condemnation proceeding, his attorney or agent, to obtain a representative sample of the article seized, and as regards fresh fruits or fresh vegetables, a true copy of the analysis on which the proceeding is based and the identifying marks or numbers, if any, of the packages from which the samples analyzed were obtained.

(d) Any food, drug, device, or cosmetic condemned under this section shall, after entry of the decree, be disposed of by destruction or sale as the court may, in accordance with the provisions of this section, direct and the proceeds thereof, if sold, less the legal costs and charges, shall be paid into the Treasury of the United States; but such article shall not be sold under such decree contrary to the provisions of this Act or the laws of the jurisdiction in which sold: *Provided,* That after entry of the decree and upon the payment of the costs of such proceedings and the execution of a good and sufficient bond conditioned that such article shall not be sold or disposed of contrary to the provisions of this Act or the laws of any State or Territory in which sold, the court may by order direct that such article be delivered to the owner thereof to be destroyed or brought into compliance with the provisions of this Act under the supervision of an officer or

employee duly designated by the Secretary, and the expenses of such supervision shall be paid by the person obtaining release of the article under bond. Any article condemned by reason of its being an article which may not, under section 404 or 505, be introduced into interstate commerce, shall be disposed of by destruction.

(e) When a decree of condemnation is entered against the article, court costs and fees, and storage and other proper expenses, shall be awarded against the person, if any, intervening as claimant of the article.

(f) In the case of removal for trial of any case as provided by subsection (a) or (b)—

(1) The clerk of the court from which removal is made shall promptly transmit to the court in which the case is to be tried all records in the case necessary in order that such court may exercise jurisdiction.

(2) The court to which such case was removed shall have the powers and be subject to the duties, for purposes of such case, which the court from which removal was made would have had, or to which such court would have been subject, if such case had not been removed.

HEARING BEFORE REPORT OF CRIMINAL VIOLATION

SEC. 305. Before any violation of this Act is reported by the Secretary to any United States attorney for institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his views, either orally or in writing, with regard to such contemplated proceeding.

REPORT OF MINOR VIOLATIONS

SEC. 306. Nothing in this Act shall be construed as requiring the Secretary to report for prosecution, or for the institution of libel or injunction proceedings, minor violations of this Act whenever he believes that the public interest will be adequately served by a suitable written notice or warning.

PROCEEDINGS IN NAME OF UNITED STATES; PROVISION AS TO SUBPENAS

SEC. 307. All such proceedings for the enforcement, or to restrain violations, of this Act shall be by and in the name of the United States. Notwithstanding the provisions of section 876 of the Revised Statutes, subpoenas for witnesses who are required to attend a court of the United States, in any district, may run into any other district in any such proceeding.

DEFINITIONS AND STANDARDS FOR FOOD

SEC. 401. Whenever in the judgment of the Secretary such action will promote honesty and fair dealing in the interest of consumers, he shall promulgate regulations fixing and establishing for any food, under its common or usual name so far as practicable, a reasonable definition and standard of identity, a reasonable standard of quality, and/or reasonable standards of fill of container: *Provided*, That no definition and standard of identity and no standard of quality shall be established for fresh or dried fruits, fresh or dried vegetables, or butter, except that definitions and standards of identity may be established for avocados, cantaloupes, citrus fruits, and melons. In prescribing any standard of fill of container, the Secretary shall give due consideration to the natural shrinkage in storage and in transit of fresh natural food and to need for the necessary packing and protective material. In the prescribing of any standard of quality for any canned fruit or canned vegetable, consideration shall be given and due allowance made for the differing characteristics of the several varieties of such fruit or vegetable. In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted, the Secretary shall, for the purpose of promoting honesty and fair dealing in the interest of consumers, designate the optional ingredients which shall be named on the label. Any definition and standard of identity prescribed by the Secretary for avocados, cantaloupes, citrus fruits, or melons shall relate only to maturity and to the effects of freezing.

ADULTERATED FOOD

SEC. 402. A food shall be deemed to be adulterated—

(a) (1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added sub-

stance such food shall not be considered adulterated under this clause if the quantity of such substance in such food does not ordinarily render it injurious to health; or (2) if it bears or contains any added poisonous or added deleterious substance which is unsafe within the meaning of section 406; or (3) if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for food; or (4) if it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health; or (5) if it is, in whole or in part, the product of a diseased animal or of an animal which has died otherwise than by slaughter; or (6) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

(b) (1) If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or (2) if any substance has been substituted wholly or in part therefor; or (3) if damage or inferiority has been concealed in any manner; or (4) if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

(c) If it bears or contains a coal-tar color other than one from a batch that has been certified in accordance with regulations as provided by section 406: *Provided*, That this paragraph shall not apply to citrus fruit bearing or containing a coal-tar color if application for listing of such color has been made under this Act and such application has not been acted on by the Secretary, if such color was commonly used prior to the enactment of this Act for the purpose of coloring citrus fruit.

(d) If it is confectionery, and it bears or contains any alcohol or nonnutritive article or substance except harmless coloring, harmless flavoring, harmless resinous glaze not in excess of four-tenths of 1 per centum, natural gum, and pectin: *Provided*, That this paragraph shall not apply to any confectionery by reason of its containing less than one-half of 1 per centum by volume of alcohol derived solely from the use of flavoring extracts, or to any chewing gum by reason of its containing harmless nonnutritive masticatory substances.

MISBRANDED FOOD

SEC. 403. A food shall be deemed to be misbranded—

(a) If its labeling is false or misleading in any particular.

(b) If it is offered for sale under the name of another food.

(c) If it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated.

(d) If its container is so made, formed, or filled as to be misleading.

(e) If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: *Provided*, That under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary.

(f) If any word, statement, or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(g) If it purports to be or is represented as a food for which a definition and standard of identity has been prescribed by regulations as provided by section 401, unless (1) it conforms to such definition and standard, and (2) its label bears the name of the food specified in the definition and standard, and, insofar as may be required by such regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such food.

(h) If it purports to be or is represented as—

(1) a food for which a standard of quality has been prescribed by regulations as provided by section 401, and its quality falls below such standard, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard; or

(2) a food for which a standard or standards of fill of container have been prescribed by regulations as provided by section 401, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard.

(i) If it is not subject to the provisions of paragraph (g) of this section unless its label bears (1) the common or usual name of the food, if any there be, and (2) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings without naming each: *Provided*, That, to the extent that compliance with the requirements of clause (2) of this paragraph is impracticable, or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the Secretary.

(j) If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the Secretary determines to be, and by regulations prescribes as, necessary in order fully to inform purchasers as to its value for such uses.

(k) If it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact: *Provided*, That to the extent that compliance with the requirements of this paragraph is impracticable, exemptions shall be established by regulations promulgated by the Secretary. The provisions of this paragraph and paragraphs (g) and (i) with respect to artificial coloring shall not apply in the case of butter, cheese, or ice cream.

EMERGENCY PERMIT CONTROL

SEC. 404. (a) Whenever the Secretary finds after investigation that the distribution in interstate commerce of any class of food may, by reason of contamination with micro-organisms during the manufacture, processing, or packing thereof in any locality, be injurious to health, and that such injurious nature cannot be adequately determined after such articles have entered interstate commerce, he then and in such case only, shall promulgate regulations providing for the issuance, to manufacturers, processors, or packers of such class of food in such locality, of permits to which shall be attached such conditions governing the manufacture, processing, or packing of such class of food, for such temporary period of time, as may be necessary to protect the public health; and after the effective date of such regulations, and during such temporary period, no person shall introduce or deliver for introduction into interstate commerce any such food manufactured, processed, or packed by any such manufacturer, processor, or packer unless such manufacturer, processor, or packer holds a permit issued by the Secretary as provided by such regulations.

(b) The Secretary is authorized to suspend immediately upon notice any permit issued under authority of this section if it is found that any of the conditions of the permit have been violated. The holder of a permit so suspended shall be privileged at any time to apply for the reinstatement of such permit, and the Secretary shall, immediately after prompt hearing and an inspection of the establishment, reinstate such permit if it is found that adequate measures have been taken to comply with and maintain the conditions of the permit, as originally issued or as amended.

(c) Any officer or employee duly designated by the Secretary shall have access to any factory or establishment, the operator of which holds a permit from the Secretary, for the purpose of ascertaining whether or not the conditions of the permit are being complied with, and denial of access for such inspection shall be ground for suspension of the permit until such access is freely given by the operator.

REGULATIONS MAKING EXEMPTIONS

SEC. 405. The Secretary shall promulgate regulations exempting from any labeling requirement of this Act (1) small open containers of fresh fruits and fresh vegetables and (2) food which is, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such food is not adulterated or misbranded under the provisions of this Act upon removal from such processing, labeling, or repacking establishment.

TOLERANCES FOR POISONOUS INGREDIENTS IN FOOD AND CERTIFICATION OF COAL-TAR COLORS FOR FOOD

SEC. 406. (a) Any poisonous or deleterious substance added to any food, except where such substance is required in the production thereof or cannot be avoided by good manufacturing practice shall be deemed to be unsafe for purposes of the application of clause (2) of section 402 (a); but when such substance is so required

or cannot be so avoided, the Secretary shall promulgate regulations limiting the quantity therein or thereon to such extent as he finds necessary for the protection of public health, and any quantity exceeding the limits so fixed shall also be deemed to be unsafe for purposes of the application of clause (2) of section 402 a.) While such a regulation is in effect limiting the quantity of any such substance in the case of any food, such food shall not, by reason of bearing or containing any added amount of such substance, be considered to be adulterated within the meaning of clause (1) of section 402 (a). In determining the quantity of such added substance to be tolerated in or on different articles of food the Secretary shall take into account the extent to which the use of such substance is required or cannot be avoided in the production of each such article, and the other ways in which the consumer may be affected by the same or other poisonous or deleterious substances.

(b) The Secretary shall promulgate regulations providing for the listing of coal-tar colors which are harmless and suitable for use in food and for the certification of batches of such colors, with or without harmless diluents.

SEC. 501. A drug or device shall be deemed to be adulterated—

(a) (1) If it consists in whole or in part of any filthy, putrid, or decomposed substance; or (2) if it has been prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health; or (3) if it is a drug and its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or (4) if it is a drug and it bears or contains for purposes of coloring only, a coal-tar color other than one from a batch that has been certified in accordance with regulations as provided by section 504.

(b) If it purports to be or is represented as a drug the name of which is recognized in an official compendium, and its strength differs from, or its quality or purity falls below, the standard set forth in such compendium. Such determination as to strength, quality, or purity shall be made in accordance with the tests or methods of assay set forth in such compendium, except that whenever tests or methods of assay have not been prescribed in such compendium, or such tests or methods of assay as are prescribed are, in the judgment of the Secretary, insufficient for the making of such determination, the Secretary shall bring such fact to the attention of the appropriate body charged with the revision of such compendium, and if such body fails within a reasonable time to prescribe tests or methods of assay which, in the judgment of the Secretary, are sufficient for purposes of this paragraph, then the Secretary shall promulgate regulations prescribing appropriate tests or methods of assay in accordance with which such determination as to strength, quality, or purity shall be made. No drug defined in an official compendium shall be deemed to be adulterated under this paragraph because it differs from the standard of strength, quality, or purity therefor set forth in such compendium, if its difference in strength, quality, or purity from such standard is plainly stated on its label. Whenever a drug is recognized in both the United States Pharmacopœia and the Homœopathic Pharmacopœia of the United States it shall be subject to the requirements of the United States Pharmacopœia unless it is labeled and offered for sale as a homœopathic drug, in which case it shall be subject to the provisions of the Homœopathic Pharmacopœia of the United States and not to those of the United States Pharmacopœia.

(c) If it is not subject to the provisions of paragraph (b) of this section and its strength differs from, or its purity or quality falls below, that which it purports or is represented to possess.

(d) If it is a drug and any substance has been (1) mixed or packed therewith so as to reduce its quality or strength or (2) substituted wholly or in part therefor.

MISBRANDED DRUGS AND DEVICES

SEC. 502. A drug or device shall be deemed to be misbranded—

(a) If its labeling is false or misleading in any particular.

(b) If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: *Provided*, That under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary.

(c) If any word, statement, or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs,

or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(d) If it is for use by man and contains any quantity of the narcotic or hypnotic substance alpha eucaine, barbituric acid, betaeucaine, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, marihuana, morphine, opium, paraldehyde, peyote, or sulphonmethane; or any chemical derivative of such substance, which derivative has been by the Secretary, after investigation, found to be, and by regulations designated as, habit forming; unless its label bears the name, quantity, and percentage of such substance or derivative and in juxtaposition therewith the statement "Warning—May be habit forming".

(e) If it is a drug and is not designated solely by a name recognized in an official compendium unless its label bears (1) the common or usual name of the drug, if such there be; and (2), in case it is fabricated from two or more ingredients, the common or usual name of each active ingredient, including the quantity, kind, and proportion of any alcohol, and also including, whether active or not, the name and quantity or proportion of any bromides, ether, chloroform, acetanilid, acetphenetidin, amidopyrine, antipyrine, atropine, hyoscine, hyoseyamine, arsenic, digitalis, digitalis glucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or any derivative or preparation of any such substances, contained therein: *Provided*, That to the extent that compliance with the requirements of clause (2) of this paragraph is impracticable, exemptions shall be established by regulations promulgated by the Secretary.

(f) Unless its labeling bears (1) adequate directions for use; and (2) such adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in such manner and form, as are necessary for the protection of users: *Provided*, That where any requirement of clause (1) of this paragraph, as applied to any drug or device, is not necessary for the protection of the public health, the Secretary shall promulgate regulations exempting such drug or device from such requirement.

(g) If it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed therein: *Provided*, That the method of packing may be modified with the consent of the Secretary. Whenever a drug is recognized in both the United States Pharmacopœia and the Homœopathic Pharmacopœia of the United States, it shall be subject to the requirements of the United States Pharmacopœia with respect to packaging and labeling unless it is labeled and offered for sale as a homœopathic drug, in which case it shall be subject to the provisions of the Homœopathic Pharmacopœia of the United States, and not to those of the United States Pharmacopœia.

(h) If it has been found by the Secretary to be a drug liable to deterioration, unless it is packaged in such form and manner, and its label bears a statement of such precautions, as the Secretary shall by regulations require as necessary for the protection of the public health. No such regulation shall be established for any drug recognized in an official compendium until the Secretary shall have informed the appropriate body charged with the revision of such compendium of the need for such packaging or labeling requirements and such body shall have failed within a reasonable time to prescribe such requirements.

(i) (1) If it is a drug and its container is so made, formed, or filled as to be misleading; or (2) if it is an imitation of another drug; or (3) if it is offered for sale under the name of another drug.

(j) If it is dangerous to health when used in the dosage, or with the frequency or duration prescribed, recommended, or suggested in the labeling thereof.

EXEMPTIONS IN CASE OF DRUGS AND DEVICES

SEC. 503. (a) The Secretary is hereby directed to promulgate regulations exempting from any labeling or packaging requirement of this Act drugs and devices which are, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such drugs and devices are not adulterated or misbranded under the provisions of this Act upon removal from such processing, labeling, or repacking establishment.

(b) A drug dispensed on a written prescription signed by a physician, dentist, or veterinarian (except a drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail), shall if—

(1) such physician, dentist, or veterinarian is licensed by law to administer such drug, and

(2) such drug bears a label containing the name and place of business of the dispenser, the serial number and date of such prescription, and the name of such physician, dentist, or veterinarian, be exempt from the requirements of section 502 (b) and (e), and (in case such prescription is marked by the writer thereof as not refillable or its refilling is prohibited by law) of section 502 (d).

CERTIFICATION OF COAL-TAR COLORS FOR DRUGS

SEC. 504. The Secretary shall promulgate regulations providing for the listing of coal-tar colors which are harmless and suitable for use in drugs for purposes of coloring only and for the certification of batches of such colors, with or without harmless diluents.

NEW DRUGS

SEC. 505. (a) No person shall introduce or deliver for introduction into interstate commerce any new drug, unless an application filed pursuant to subsection (b) is effective with respect to such drug.

(b) Any person may file with the Secretary an application with respect to any drug subject to the provisions of subsection (a). Such person shall submit to the Secretary as a part of the application (1) full reports of investigations which have been made to show whether or not such drug is safe for use; (2) a full list of the articles used as components of such drug; (3) a full statement of the composition of such drug; (4) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such drug; (5) such samples of such drug and of the articles used as components thereof as the Secretary may require; and (6) specimens of the labeling proposed to be used for such drug.

(c) An application provided for in subsection (b) shall become effective on the sixtieth day after the filing thereof unless prior to such day the Secretary by notice to the applicant in writing postpones the effective date of the application to such time (not more than one hundred and eighty days after the filing thereof) as the Secretary deems necessary to enable him to study and investigate the application.

(d) If the Secretary finds, after due notice to the applicant and giving him an opportunity for a hearing, that (1) the investigations, reports of which are required to be submitted to the Secretary pursuant to subsection (b), do not include adequate tests by all methods reasonably applicable to show whether or not such drug is safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof; (2) the results of such tests show that such drug is unsafe for use under such conditions or do not show that such drug is safe for use under such conditions; (3) the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such drug are inadequate to preserve its identity, strength, quality, and purity; or (4) upon the basis of the information submitted to him as part of the application, or upon the basis of any other information before him with respect to such drug, he has insufficient information to determine whether such drug is safe for use under such conditions, he shall, prior to the effective date of the application, issue an order refusing to permit the application to become effective.

(e) The effectiveness of an application with respect to any drug shall, after due notice and opportunity for hearing to the applicant, by order of the Secretary be suspended if the Secretary finds (1) that clinical experience, tests by new methods, or tests by methods not deemed reasonably applicable when such application became effective show that such drug is unsafe for use under the conditions of use upon the basis of which the application became effective, or (2) that the application contains any untrue statement of a material fact. The order shall state the findings upon which it is based.

(f) An order refusing to permit an application with respect to any drug to become effective shall be revoked whenever the Secretary finds that the facts so require.

(g) Orders of the Secretary issued under this section shall be served (1) in person by any officer or employee of the department designated by the Secretary or (2) by mailing the order by registered mail addressed to the applicant or respondent at his last-known address in the records of the Secretary.

(h) An appeal may be taken by the applicant from an order of the Secretary refusing to permit the application to become effective, or suspending the effectiveness of the application. Such appeal shall be taken by filing in the district court of the United States within any district wherein such applicant resides or has his principal place of business, or in the District Court of the United States for the

District of Columbia, within sixty days after the entry of such order, a written petition praying that the order of the Secretary be set aside. A copy of such petition shall be forthwith served upon the Secretary, or upon any officer designated by him for that purpose, and thereupon the Secretary shall certify and file in the court a transcript of the record upon which the order complained of was entered. Upon the filing of such transcript such court shall have exclusive jurisdiction to affirm or set aside such order. No objection to the order of the Secretary shall be considered by the court unless such objection shall have been urged before the Secretary or unless there were reasonable grounds for failure so to do. The finding of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive. If any person shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence to be taken before the Secretary and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Secretary may modify his findings as to the facts by reason of the additional evidence so taken, and he shall file with the court such modified findings which, if supported by substantial evidence, shall be conclusive, and his recommendation, if any, for the setting aside of the original order. The judgment and decree of the court affirming or setting aside any such order of the Secretary shall be final, subject to review as provided in sections 128, 239, and 240 of the Judicial Code, as amended (U. S. C., 1934 ed., title 28, secs. 225, 346, and 347), and in section 7, as amended, of the Act entitled "An Act to establish a Court of Appeals for the District of Columbia", approved February 9, 1893 (D. C. Code, title 18, sec. 26). The commencement of proceedings under this subsection shall not, unless specifically ordered by the court to the contrary, operate as a stay of the Secretary's order.

(i) The Secretary shall promulgate regulations for exempting from the operation of this section drugs intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety of drugs.

SEC. 601. A cosmetic shall be deemed to be adulterated—

(a) If it bears or contains any poisonous or deleterious substance which may render it injurious to users under the conditions of use prescribed in the labeling thereof, or under such conditions of use as are customary or usual: *Provided*, That this provision shall not apply to coal-tar hair dye, the label of which bears the following legend conspicuously displayed thereon: "Caution—This product contains ingredients which may cause skin irritation on certain individuals and a preliminary test according to accompanying directions should first be made. This product must not be used for dyeing the eyelashes or eyebrows; to do so may cause blindness.", and the labeling of which bears adequate directions for such preliminary testing. For the purposes of this paragraph and paragraph (e) the term "hair dye" shall not include eyelash dyes or eyebrow dyes.

(b) If it consists in whole or in part of any filthy, putrid, or decomposed substance.

(c) If it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health.

(d) If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

(e) If it is not a hair dye and it bears or contains a coal-tar color other than one from a batch that has been certified in accordance with regulations as provided by section 604.

SEC. 602. A cosmetic shall be deemed to be misbranded—

(a) If its labeling is false or misleading in any particular.

(b) If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: *Provided*, That under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary.

(c) If any word, statement, or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(d) If its container is so made, formed, or filled as to be misleading.

REGULATIONS MAKING EXEMPTIONS

SEC. 603. The Secretary shall promulgate regulations exempting from any labeling requirement of this Act cosmetics which are, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such cosmetics are not adulterated or misbranded under the provisions of this Act upon removal from such processing, labeling, or repacking establishment.

SEC. 604. The Secretary shall promulgate regulations providing for the listing of coal-tar colors which are harmless and suitable for use in cosmetics and for the certification of batches of such colors, with or without harmless diluents.

SEC. 701. (a) The authority to promulgate regulations for the efficient enforcement of this Act, except as otherwise provided in this section, is hereby vested in the Secretary.

(b) The Secretary of the Treasury and the Secretary of Agriculture shall jointly prescribe regulations for the efficient enforcement of the provisions of section 801, except as otherwise provided therein. Such regulations shall be promulgated in such manner and take effect at such time, after due notice, as the Secretary of Agriculture shall determine.

(c) Hearings authorized or required by this Act shall be conducted by the Secretary or such officer or employee as he may designate for the purpose.

(d) The definitions and standards of identity promulgated in accordance with the provisions of this Act shall be effective for the purposes of the enforcement of this Act, notwithstanding such definitions and standards as may be contained in other laws of the United States and regulations promulgated thereunder.

(e) The Secretary, on his own initiative or upon an application of any interested industry or substantial portion thereof stating reasonable grounds therefor, shall hold a public hearing upon a proposal to issue, amend, or repeal any regulation contemplated by any of the following sections of this Act: 401, 403 (j), 404 (a), 406 (a) and (b), 501 (b), 502 (d), 502 (h), 504, and 604. The Secretary shall give appropriate notice of the hearing, and the notice shall set forth the proposal in general terms and specify the time and place for a public hearing to be held thereon not less than thirty days after the date of the notice, except that the public hearing on regulations under section 404 (a) may be held within a reasonable time, to be fixed by the Secretary, after notice thereof. At the hearing any interested person may be heard in person or by his representative. As soon as practicable after completion of the hearing, the Secretary shall by order made public his action in issuing, amending, or repealing the regulation or determining not to take such action. The Secretary shall base his order only on substantial evidence of record at the hearing and shall set forth as part of the order detailed findings of fact on which the order is based. No such order shall take effect prior to the ninetieth day after it is issued, except that if the Secretary finds that emergency conditions exist necessitating an earlier effective date, then the Secretary shall specify in the order his findings as to such conditions and the order shall take effect at such earlier date as the Secretary shall specify therein to meet the emergency.

(f) (1) In a case of actual controversy as to the validity of any order under subsection (e), any person who will be adversely affected by such order if placed in effect may at any time prior to the ninetieth day after such order is issued file a petition with the Circuit Court of Appeals of the United States for the circuit wherein such person resides or has his principal place of business, for a judicial review of such order. The summons and petition may be served at any place in the United States. The Secretary, promptly upon service of the summons and petition, shall certify and file in the court the transcript of the proceedings and the record on which the Secretary based his order.

(2) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Secretary, and to be adduced upon the hearing, in such manner and upon such terms and conditions as to the court may seem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original order, with the return of such additional evidence.

(3) The court shall have jurisdiction to affirm the order, or to set it aside in whole or in part, temporarily or permanently. If the order of the Secretary refuses to issue, amend, or repeal a regulation and such order is not in accordance with law the court shall by its judgment order the Secretary to take action with respect to such regulation, in accordance with law. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive.

(4) The judgment of the court affirming or setting aside, in whole or in part, any such order of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in sections 239 and 240 of the Judicial Code, as amended.

(5) Any action instituted under this subsection shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

(6) The remedies provided for in this subsection shall be in addition to and not in substitution for any other remedies provided by law.

(g) A certified copy of the transcript of the record and proceedings under subsection (e) shall be furnished by the Secretary to any interested party at his request, and payment of the costs thereof, and shall be admissible in any criminal, libel for condemnation, exclusion of imports, or other proceeding arising under or in respect to this Act, irrespective of whether proceedings with respect to the order have previously been instituted or become final under subsection (f).

EXAMINATIONS AND INVESTIGATIONS

SEC. 702. (a) The Secretary is authorized to conduct examinations and investigations for the purposes of this Act through officers and employees of the Department or through any health, food, or drug officer or employee of any State, Territory, or political subdivision thereof, duly commissioned by the Secretary as an officer of the Department. In the case of food packed in a Territory the Secretary shall attempt to make inspection of such food at the first point of entry within the United States when, in his opinion and with due regard to the enforcement of all the provisions of this Act, the facilities at his disposal will permit of such inspection. For the purposes of this subsection the term "United States" means the States and the District of Columbia.

(b) Where a sample of a food, drug, or cosmetic is collected for analysis under this Act the Secretary shall, upon request, provide a part of such official sample for examination or analysis by any person named on the label of the article, or the owner thereof, or his attorney or agent; except that the Secretary is authorized, by regulations, to make such reasonable exceptions from, and impose such reasonable terms and conditions relating to, the operation of this subsection as he finds necessary for the proper administration of the provisions of this Act.

(c) For purposes of enforcement of this Act, records of any department or independent establishment in the executive branch of the Government shall be open to inspection by any official of the Department of Agriculture duly authorized by the Secretary to make such inspection.

RECORDS OF INTERSTATE SHIPMENT

SEC. 703. For the purpose of enforcing the provisions of this Act, carriers engaged in interstate commerce, and persons receiving food, drugs, devices, or cosmetics in interstate commerce or holding such articles so received, shall, upon the request of an officer or employee duly designated by the Secretary, permit such officer or employee, at reasonable times, to have access to and to copy all records showing the movement in interstate commerce of any food, drug, device, or cosmetic, or the holding thereof during or after such movement, and the quantity, shipper, and consignee thereof; and it shall be unlawful for any such carrier or person to fail to permit such access to and copying of any such record so requested when such request is accompanied by a statement in writing specifying the nature or kind of food, drug, device, or cosmetic to which such request relates: *Provided*, That evidence obtained under this section shall not be used in a criminal prosecution of the person from whom obtained: *Provided further*, That carriers shall not be subject to the other provisions of this Act by reason of their receipt, carriage, holding, or delivery of food, drugs, devices, or cosmetics in the usual course of business as carriers.

FACTORY INSPECTION

SEC. 704. For purposes of enforcement of this Act, officers or employees duly designated by the Secretary, after first making request and obtaining permission of the owner, operator, or custodian thereof, are authorized (1) to enter, at reasonable times, any factory, warehouse, or establishment in which food, drugs, devices, or cosmetics are manufactured, processed, packed, or held, for introduction into interstate commerce or are held after such introduction, or to enter any vehicle being used to transport or hold such food, drugs, devices, or cosmetics in interstate commerce; and (2) to inspect, at reasonable times, such factory, warehouse, establishment, or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling therein.

PUBLICITY

SEC. 705. (a) The Secretary shall cause to be published from time to time reports summarizing all judgments, decrees, and court orders which have been rendered under this Act, including the nature of the charge and the disposition thereof.

(b) The Secretary may also cause to be disseminated information regarding food, drugs, devices, or cosmetics in situations involving, in the opinion of the Secretary, imminent danger to health or gross deception of the consumer. Nothing in this section shall be construed to prohibit the Secretary from collecting, reporting, and illustrating the results of the investigations of the Department.

COST OF CERTIFICATION OF COAL-TAR COLORS

SEC. 706. The admitting to listing and certification of coal-tar colors, in accordance with regulations prescribed under this Act, shall be performed only upon payment of such fees, which shall be specified in such regulations, as may be necessary to provide, maintain, and equip an adequate service for such purposes.

SEC. 801. (a) The Secretary of the Treasury shall deliver to the Secretary of Agriculture, upon his request, samples of food, drugs, devices, and cosmetics which are being imported or offered for import into the United States, giving notice thereof to the owner or consignee, who may appear before the Secretary of Agriculture and have the right to introduce testimony. If it appears from the examination of such samples or otherwise that (1) such article has been manufactured, processed, or packed under insanitary conditions, or (2) such article is forbidden or restricted in sale in the country in which it was produced or from which it was exported, or (3) such article is adulterated, misbranded, or in violation of section 505, then such article shall be refused admission. This paragraph shall not be construed to prohibit the admission of narcotic drugs the importation of which is permitted under section 2 of the Act of May 26, 1922, as amended (U. S. C., 1934 edition, title 21, sec. 173).

(b) The Secretary of the Treasury shall refuse delivery to the consignee and shall cause the destruction of any such article refused admission, unless such article is exported by the consignee within three months from the date of notice of such refusal, under such regulations as the Secretary of the Treasury may prescribe: *Provided*, That the Secretary of the Treasury may deliver to the consignee any such article pending examination and decision in the matter on execution of a bond as liquidated damages for the amount of the full invoice value thereof together with the duty thereon and on refusing for any cause to return such article or any part thereof to the custody of the Secretary of the Treasury when demanded for the purpose of excluding it from the country or for any other purpose, such consignee shall forfeit the full amount of the bond as liquidated damages.

(c) All charges for storage, cartage, and labor on any article which is refused admission or delivery shall be paid by the owner or consignee and in default of such payment shall constitute a lien against any future importations made by such owner or consignee.

(d) A food, drug, device, or cosmetic intended for export shall not be deemed to be adulterated or misbranded under this Act if it (1) accords to the specifications of the foreign purchaser, (2) is not in conflict with the laws of the country to which it is intended for export, and (3) is labeled on the outside of the shipping package to show that it is intended for export. But if such article is sold or offered for sale in domestic commerce, this subsection shall not exempt it from any of the provisions of this Act.

June 25, 1938, ch. 675, § 901, 52 Stat.
1059

Omitted

SEPARABILITY CLAUSE

SEC. 901. If any provision of this Act is declared unconstitutional, or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of the Act and the applicability thereof to other persons and circumstances shall not be affected thereby.

June 25, 1938, ch. 675, § 902 (a) 52 Stat.
1059

Omitted

EFFECTIVE DATE AND REPEALS

SEC. 902. (a) This Act shall take effect twelve months after the date of its enactment. The Federal Food and Drugs Act of June 30, 1906, as amended (U. S. C., 1934 ed., title 21, secs. 1-15), shall remain in force until such effective date, and, except as otherwise provided in this subsection, is hereby repealed effective upon such date: *Provided*, That the provisions of section 701 shall become effective on the enactment of this Act, and thereafter the Secretary is authorized hereby to (1) conduct hearings and to promulgate regulations which shall become effective on or after the effective date of this Act as the Secretary shall direct, and (2) designate prior to the effective date of this Act food having common or usual names and exempt such food from the requirements of clause (2) of section 403 (i) for a reasonable time to permit the formulation, promulgation, and effective application of definitions and standards of identity therefor as provided by section 401: *Provided further*, That sections 502 (j), 505, and 601 (a), and all other provisions of this Act to the extent that they may relate to the enforcement of such sections, shall take effect on the date of the enactment of this Act, except that in the case of a cosmetic to which the proviso of section 601 (a) relates, such cosmetic shall not, prior to the ninetieth day after such date of enactment, be deemed adulterated by reason of the failure of its label to bear the legend prescribed in such proviso: *Provided further*, That the Act of March 4, 1923 (U. S. C., 1934 ed., title 21, sec. 6; 42 Stat. 1500, ch. 268), defining butter and providing a standard therefor; the Act of July 24, 1919 (U. S. C., 1934 ed., title 21, sec. 10; 41 Stat. 271, ch. 26), defining wrapped meats as in package form; and the amendment to the Food and Drugs Act, section 10A, approved August 27, 1935 (U. S. C., 1934 ed., Sup. III, title 21, sec. 14a), shall remain in force and effect and be applicable to the provisions of this Act.

June 25, 1938, ch. 675, § 902 (b), 52
Stat. 1059

T. 21, § 59

(b) Meats and meat food products shall be exempt from the provisions of this Act to the extent of the application or the extension thereto of the Meat Inspection Act, approved March 4, 1907, as amended (U. S. C., 1934 ed., title 21, secs. 71-91; 34 Stat. 1260 et seq.).

June 25, 1938, ch. 675, § 902 (c) (d), 52
Stat. 1059

Omitted

(c) Nothing contained in this Act shall be construed as in any way affecting, modifying, repealing, or superseding the provisions of the virus, serum, and toxin Act of July 1, 1902 (U. S. C., 1934 ed., title 42, chap. 4); the Filled Cheese Act of June 6, 1896 (U. S. C., 1934 ed., title 26, ch. 10), the Filled Milk Act of March 4, 1923 (U. S. C., 1934 ed., title 21, ch. 3, secs. 61-63); or the Import Milk Act of February 15, 1927 (U. S. C., 1934 ed., title 21, ch. 4, secs. 141-149).

(d) In order to carry out the provisions of this Act which take effect prior to the repeal of the Food and Drugs Act of June 30, 1906, as amended, appropriations available for the enforcement of such Act of June 30, 1906, are also authorized to be made available to carry out such provisions.

June 29, 1938, ch. 810, 52 Stat. 1235-----T. 21, §§ 491, 501, 509

That the Meat Inspection Act of March 4, 1907, as amended and extended, is amended by substituting for the concluding paragraph thereof the following:

“That within the meaning of this Act—

“(a) A ‘farmer’ means any person or partnership chiefly engaged in producing agricultural products on whose farm the number of cattle, calves, sheep, lambs, swine, or goats is in keeping with the size of the farm or with the volume or character of the agricultural products produced thereon, but does not mean any person or partnership engaged in producing agricultural products who—

“(1) actively engages in buying or trading in cattle, calves, sheep, lambs, swine, or goats; or

"(2) actively engages, directly or indirectly, in conducting a business which includes the slaughter of cattle, calves, sheep, lambs, swine, or goats for food purposes; or

"(3) actively engages, directly or indirectly, in buying or selling meat or meat food products other than those prepared by any farmer on the farm; or

"(4) actively engages, directly or indirectly, in salting, curing, or canning meat, or in preparing sausage, lard, or other meat food products; or

"(5) slaughters, or permits any person to slaughter, on his or their farm cattle, calves, sheep, lambs, swine, or goats which are not actually owned by him or them.

"(b) A 'retail butcher' means any person, partnership, association, or corporation chiefly engaged in selling meat or meat food products to consumers only, except that the Secretary of Agriculture, at his discretion, may permit any retail butcher to transport in interstate or foreign commerce to consumers and meat retailers in any one week not more than five carcasses of cattle, twenty-five carcasses of calves, twenty carcasses of sheep, twenty-five carcasses of lambs, ten carcasses of swine, twenty carcasses of goats, or twenty-five carcasses of goat kids, or the equivalent of fresh meat therefrom, and to transport in interstate or foreign commerce to consumers only meat and meat food products which have been salted, cured, canned, or prepared as sausage, lard, or other meat food products, and which have not been inspected, examined, and marked as 'Inspected and Passed' in accordance with the terms of the Meat Inspection Act of March 4, 1907, and Acts supplemental thereto, and with the rules and regulations prescribed by the Secretary of Agriculture.

"(c) A 'retail dealer' means any person, partnership, association, or corporation chiefly engaged in selling meat or meat food products to consumers only except that the Secretary of Agriculture, at his discretion, may permit any retail dealer to transport in interstate trade or foreign commerce to consumers and meat retailers in any one week not more than five carcasses of cattle, twenty-five carcasses of calves, twenty carcasses of sheep, twenty-five carcasses of lambs, ten carcasses of swine, twenty carcasses of goats, or twenty-five carcasses of goat kids, or the equivalent of fresh meat therefrom, and to transport in interstate or foreign commerce to consumers only meat and meat food products which have been salted, cured, canned, or prepared as sausage, lard, or other meat food products which have not been inspected, examined, and marked as 'Inspected and Passed' in accordance with the terms of the Meat Inspection Act of March 4, 1907, and Acts supplemental thereto, and with the rules and regulations prescribed by the Secretary of Agriculture.

"That the provisions of the Meat Inspection Act of March 4, 1907, requiring inspection to be made by the Secretary of Agriculture shall not apply to animals slaughtered by any farmer on the farm and sold and transported in interstate or foreign commerce, nor to retail butchers and retail dealers in meat and meat food products, supplying their customers: *Provided*, That all meat and meat food products derived from animals slaughtered by any farmer on the farm which are salted, cured, canned, or prepared into sausage, lard, or other meat food products at any place other than by the farmer on the farm upon which the animals were slaughtered shall not be transported in interstate or foreign commerce under the farmers' exemption herein provided, and all fresh meat and all farm-cured or prepared meat and meat food products derived from animals slaughtered by any farmer on the farm which are to be used in interstate or foreign commerce shall be clearly marked with the name and address of the farmer on whose farm the animals were slaughtered: *Provided further*, That if any person shall sell or offer for sale or transportation for interstate or foreign commerce any meat or meat food products which are diseased, unsound, unhealthful, unwholesome, or otherwise unfit for human food, knowing that such meat food products are intended for human consumption, he shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine not exceeding \$1,000 or by imprisonment for a period of not exceeding one year, or by both such fine and imprisonment: *And provided further*, That the Secretary of Agriculture is authorized to maintain the inspection in this Act provided for at any slaughtering, meat canning, salting, packing, rendering, or similar establishment notwithstanding this exception, and that the persons operating the same may be retail butchers and retail dealers or farmers; and where the Secretary of Agriculture shall establish such inspection then the provisions of this Act shall apply notwithstanding this exception."

May 2, 1939, ch. 107, title I, § 1 (part),
53 Stat. 631

Omitted

* * *, which section is hereby made immediately effective * * *

June 23, 1939, ch. 242, §§ 1, 2, 53 Stat.
853, 854

Omitted

That (a) the effective date of the following provisions of the Federal Food, Drug, and Cosmetic Act is hereby postponed until January 1, 1940: Sections 402 (c); 403 (e) (1); 403 (g), (h), (i), (j), and (k); 501 (a) (4); 502 (b), (d), (e), (f), (g), and (h); 601 (e); and 602 (b).

(b) The Secretary of Agriculture shall promulgate regulations further postponing to July 1, 1940, the effective date of the provisions of sections 403 (e) (1); 403 (g), (h), (i), (j), and (k); 502 (b), (d), (e), (f), (g), and (h), and 602 (b) of such Act with respect to lithographed labeling which was manufactured prior to February 1, 1939, and to containers bearing labeling which, prior to February 1, 1939, was lithographed, etched, stamped, pressed, printed, fused or blown on or in such containers, where compliance with such provisions would be unduly burdensome by reason of causing the loss of valuable stocks of such labeling or containers, and where such postponement would not prevent the public interest being adequately served: *Provided*, That in no case shall such regulations apply to labeling which would not have complied with the requirements of the Food and Drugs Act of June 30, 1906, as amended.

SEC. 2. (a) The provisions of section 8, paragraph fifth, under the heading "In the case of food:", of the Food and Drugs Act of June 30, 1906, as amended, and regulations promulgated thereunder, and all other provisions of such Act to the extent that they may relate to the enforcement of such section 8 and of such regulations, shall remain in force until January 1, 1940.

(b) The provisions of such Act of June 30, 1906, as amended, to the extent that they impose, or authorize the imposition of, any requirement imposed by section 403 (k) of the Federal Food, Drug, and Cosmetic Act, shall remain in force until January 1, 1940.

(c) Notwithstanding the provisions of section 1 of this Act, such section shall not apply—

(1) to the provisions of section 502 (d) and (e) of the Federal Food, Drug, and Cosmetic Act, insofar as such provisions relate to any substance named in section 8, paragraph second, under the heading "In the case of drugs:", of the Food and Drugs Act of June 30, 1906, as amended, or a derivative of any such substance; or

(2) to the provisions of section 502 (b), (d), (e), (f), (g), and (h) of the Federal Food, Drug, and Cosmetic Act, insofar as such provisions relate to drugs to which section 505 of such Act applies.

June 23, 1939, ch. 242, § 3, 53 Stat. 854----- T. 21, § 72

Section 502 (d) of the Federal Food, Drug, and Cosmetic Act is hereby amended by striking out the words "name, quantity, and percentage" where they appear therein and substituting in lieu thereof "name, and quantity or proportion".

June 27, 1940, ch. 437, title I, § 101
(part), 54 Stat. 632

T. 21, § 263

Provided, That on and after July 1, 1940, no tea, or merchandise described as tea, shall be examined for importation into the United States, or released by the Collector, under said Act unless the importer or consignee of such tea or merchandise, prior to such examination, has paid for deposit into the Treasury of the United States as miscellaneous receipts, a fee of 3.5 cents for each hundred-weight or fraction thereof of such tea and merchandise.

July 1, 1941, ch. 269, title II (part), 55
Stat. 478

T. 21, § 263

Provided, That on and after July 1, 1940, no tea, or merchandise described as tea, shall be examined for importation into the United States, or released by the Collector, under said Act, unless the importer or consignee of such tea or merchandise, prior to such examination, has paid for deposit into the Treasury of the United States as miscellaneous receipts, a fee of 3.5 cents for each hundred-weight or fraction thereof of such tea and merchandise.

July 11, 1941, ch. 289, § 1, 55 Stat. 584----- T. 21, § 769

That (a) whoever brings on board, or has in his possession or control on board, any vessel of the United States, while engaged on a foreign voyage, any narcotic drug not constituting a part of the cargo entered in the manifest or part of the ship stores, shall be fined not more than \$5,000 or be imprisoned for not more than five years, or both.

(b) As used in subsection (a) "narcotic drug" means any narcotic drug as now or hereafter defined by the Narcotic Drugs Import and Export Act, or any substance in respect of which a tax is imposed pursuant to chapter 23 of the Internal Revenue Code, as amended, or pursuant to any regulations thereunder.

July 11, 1941, ch. 289, § 2, 55 Stat. 584----- Omitted

This Act shall take effect thirty days after the date of its enactment.

Dec. 22, 1941, ch. 613, §§ 1-3, 55 Stat. 851----- T. 21, §§ 72, 76, 151

That section 301 (i) of the Federal Food, Drug, and Cosmetic Act, of June 25, 1938, as amended, is amended by inserting "506," before the phrase "or 604." at the end thereof.

SEC. 2. Section 502 of such Act, as amended, is amended by inserting a new paragraph at the end thereof, as follows:

"(k) If it is, or purports to be, or is represented as a drug composed wholly or partly of insulin, unless (1) it is from a batch with respect to which a certificate or release has been issued pursuant to section 506, and (2) such certificate or release is in effect with respect to such drug."

Sec. 3. Chapter V of such Act, as amended, is amended by adding a new section at the end thereof, as follows:

"CERTIFICATION OF DRUGS CONTAINING INSULIN

"SEC. 506. (a) The Federal Security Administrator, pursuant to regulations promulgated by him, shall provide for the certification of batches of drugs composed wholly or partly of insulin. A batch of any such drug shall be certified if such drug has such characteristics of identity and such batch has such characteristics of strength, quality, and purity, as the Administrator prescribes in such regulations as necessary to adequately insure safety and efficacy of use, but shall not otherwise be certified. Prior to the effective date of such regulations the Administrator, in lieu of certification, shall issue a release for any batch which, in his judgment, may be released without risk as to the safety and efficacy of its use. Such release shall prescribe the date of its expiration and other conditions under which it shall cease to be effective as to such batch and as to portions thereof.

"(b) Regulations providing for such certification shall contain such provisions as are necessary to carry out the purposes of this section, including provisions prescribing (1) standards of identity and of strength, quality, and purity; (2) tests and methods of assay to determine compliance with such standards; (3) effective periods for certificates, and other conditions under which they shall cease to be effective as to certified batches and as to portions thereof; (4) administration and procedure; and (5) such fees, specified in such regulations, as are necessary to provide, equip, and maintain an adequate certification service. Such regulations shall prescribe no standard of identity or of strength, quality, or purity for any drug different from the standard of identity, strength, quality, or purity set forth for such drug in an official compendium.

"(c) Such regulations, insofar as they prescribe tests or methods of assay to determine strength, quality, or purity of any drug, different from the tests or methods of assay set forth for such drug in an official compendium, shall be prescribed, after notice and opportunity for revision of such compendium, in the manner provided in the second sentence of section 501 (b). The provisions of subsections (e), (f), and (g) of section 701 shall be applicable to such portion of any regulation as prescribes any such different test or method, but shall not be applicable to any other portion of any such regulation."

Dec. 22, 1941, ch. 613, § 4, 55 Stat. 852----- Omitted

Regulations initially prescribed under section 506 of such Act, as amended, shall be promulgated and made effective within forty-five days after the date of enactment of this Act.

Dec. 11, 1942, ch. 720, §§ 1-14, 56 Stat. 1045-1049

T. 21, §§ 711, 811-821

That it is the purpose of this Act (1) to discharge more effectively the obligations of the United States under the International Opium Convention of 1912, and the Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs of 1931; (2) to promote the public health and the general welfare; (3) to regulate interstate and foreign commerce in opium poppies; and (4) to safeguard the revenue derived from taxation of opium and opium products.

SEC. 2. For the purpose of this Act—

(a) The term "person" includes a partnership, company, association, or corporation, as well as a natural person or persons.

(b) The terms "produce" or "production" include the planting, cultivation, growth, harvesting, and any other activity which facilitates the growth of the opium poppy.

(c) The term "opium poppy" includes the plant *Papaver somniferum*, any other plant which is the source of opium or opium products, and any part of any such plant.

(d) The term "opium" includes the inspissated juice of the opium poppy, in crude or refined form.

(e) The term "opium products" includes opium and all substances obtainable from opium or the opium poppy, except the seed thereof.

SEC. 3. It shall be unlawful for any person who is not the holder of a license authorizing him to produce the opium poppy, duly issued to him by the Secretary of the Treasury in accordance with the provisions of this Act, to produce or attempt to produce the opium poppy, or to permit the production of the opium poppy in or upon any place owned, occupied, used, or controlled by him.

SEC. 4. (a) Except as otherwise provided in section 7: (1) it shall be unlawful for any person who is not the holder of a license authorizing him to produce the opium poppy or to manufacture opium or opium products, duly issued to him by the Secretary of the Treasury in accordance with the provisions of this Act, to purchase or in any other manner obtain the opium poppy; and (2) it shall be unlawful for any person to sell, transfer, convey any interest in, or give away the opium poppy to any person not so licensed.

(b) It shall be unlawful for any person who is not the holder of a license authorizing him to manufacture opium or opium products, duly issued to him by the Secretary of the Treasury in accordance with the provisions of this Act, to manufacture, compound, or extract opium or opium products from the opium poppy.

SEC. 5. It shall be unlawful for any person who is not the holder of a license authorizing him to produce the opium poppy or to manufacture opium or opium products, duly issued to him by the Secretary of the Treasury in accordance with the provisions of this Act, to send, ship, carry, transport, or deliver any opium poppies within any State, Territory, the District of Columbia, the Canal Zone, or insular possession of the United States, or from any State, Territory, the District of Columbia, the Canal Zone, or insular possession of the United States, into any other State, Territory, the District of Columbia, the Canal Zone, or insular possession of the United States: *Provided*, That nothing contained in this section shall apply to any common carrier engaged in transporting opium poppies pursuant to an agreement with a person duly licensed under the provisions of this Act as a producer of the opium poppy, or as a manufacturer of opium or opium products, or to any employee of any person so licensed while acting within the scope of his employment.

SEC. 6. (a) Any person who desires to procure a license to produce the opium poppy, or to manufacture opium or opium products, shall make application therefor in such manner and form as the Secretary of the Treasury shall by rules and regulations prescribe.

(b) A license to produce the opium poppy shall be issued only to a person who, in the opinion of the Secretary of the Treasury, is determined to be a person (1) of good moral character; (2) of suitable financial standing and farming experience; (3) who owns or controls suitable farm land to be used as a production area, in such locality, as will, in the judgment of the Secretary of the Treasury, render reasonably probable the efficient and diligent performance of the operations of producing the opium poppy in appropriate number and quality; and (4) who complies with such additional requirements as the Secretary of the Treasury shall deem and prescribe as reasonably necessary for the controlled production and distribution of the opium poppy. Each such license shall be nontransferable and shall be valid only to the extent of the production area and maximum weight of opium poppy yield specified in the license, shall state the locality of the production area, and shall be effective for a period of one year from the date of issue and may be renewed, in the discretion of the Secretary of the Treasury, for a like period.

(c) A license to manufacture opium or opium products shall be issued only to a person who, in the opinion of the Secretary of the Treasury, is determined to be a person (1) of good moral character; (2) who possesses a method and facilities, deemed satisfactory to the Secretary of the Treasury, for the efficient and economical extraction of opium or opium products; (3) who has such experience in manufacturing and marketing other medicinal drugs as to render reasonably

probable the orderly and lawful distribution of opium or opium products of suitable quality to supply medical and scientific needs; and (4) who complies with such additional requirements as the Secretary of the Treasury shall deem and prescribe as reasonably necessary for the controlled production, manufacture, and distribution of the opium poppy, opium, or opium products. Such license shall be nontransferable, shall state the maximum quantity of opium poppies purchasable or obtainable thereunder, and shall be effective for a period of one year from the date of issue and may be renewed, in the discretion of the Secretary of the Treasury, for a like period.

(d) All licenses issued under this Act shall be limited to such number, localities, and areas as the Secretary of the Treasury shall determine to be appropriate to supply the medical and scientific needs of the United States for opium or opium products, with due regard to provision for reasonable reserves: *Provided, however,* That nothing contained in this Act shall be construed as requiring the Secretary of the Treasury to issue or renew any license or licenses under the provisions of this Act.

(e) The Secretary of the Treasury may revoke or refuse to renew any license issued under this Act, if, after due notice and opportunity for hearing, he finds such action to be in the public interest, or finds that the licensee has failed to maintain the requisite qualifications.

SEC. 7. It shall be unlawful for any person to sell, transfer, convey any interest in, or give away, except to a person duly licensed under this Act, or for any unlicensed person to purchase or otherwise obtain, opium poppy seed for the purpose of opium poppy production: *Provided,* That the seed obtained from opium poppies produced by licensed producers may be sold or transferred by such producers to unlicensed persons, and may thereafter be resold or transferred, for ultimate consumption as a spice seed or for the manufacture of oil.

SEC. 8. (a) Any opium poppies which have been produced or otherwise obtained heretofore, and which may be produced or otherwise obtained hereafter in violation of any of the provisions of this Act, shall be seized by and forfeited to the United States.

(b) The failure, upon demand by the Secretary of the Treasury, or his duly authorized agent, of the person in occupancy or control of land or premises upon which opium poppies are being produced or stored to produce an appropriate license, or proof that he is the holder thereof, shall constitute authority for the seizure and forfeiture of such opium poppies.

(c) The Secretary of the Treasury, or his duly authorized agent, shall have authority to enter upon any land (but not a dwelling house, unless pursuant to a search warrant issued according to law) where opium poppies are being produced or stored, for the purposes of enforcing the provisions of this Act.

(d) Any opium poppies, the owner or owners of which are unknown, seized by or coming into the possession of the United States in the enforcement of this Act shall be forfeited to the United States.

(e) The Secretary of the Treasury is hereby directed to destroy any opium poppies seized by and forfeited to the United States under this section, or to deliver for medical or scientific purposes such opium poppies to any department, bureau, or other agency of the United States Government, upon proper application therefor under such regulations as may be prescribed by the Secretary of the Treasury.

SEC. 9. (a) Nothing in this Act shall be construed to repeal any provisions of the Internal Revenue Code, except that the provisions of subchapter A of chapter 23, and part V of subchapter A of chapter 27 of the Internal Revenue Code, shall not apply to the production, sale, or transfer of opium poppies, when such opium poppies are lawfully produced, sold, or transferred by persons duly licensed under this Act in conformity with the provisions of this Act and the regulations issued pursuant thereto.

(b) Nothing in this Act shall be construed to repeal any provision of the Narcotic Drugs Import and Export Act, as amended (U. S. C., title 21, secs. 171-184): *Provided,* That the Secretary of the Treasury is hereby authorized to limit further or to prohibit entirely the importation or bringing in of crude opium, to the extent that he shall find the medical and scientific needs of the United States for opium or opium products are being, or can be, supplied by opium poppies produced in accordance with this Act.

SEC. 10. (a) It shall be the duty of the Secretary of the Treasury, whenever in his opinion the medical and scientific needs of the Nation will not be met by importation or licensed production, to provide for the acquisition of opium poppy seed, for the production of the opium poppy, for the manufacture of opium or

opium products, and for the use, sale, giving away, or other proper distribution of opium poppy seed, opium poppies, opium, or opium products by the United States Government either directly or through and with the approval of the head of any agency of the Government, including any Government-owned or controlled corporation.

(b) None of the prohibitions contained in this Act shall apply to any officer or employee of the United States Treasury Department, who in the performance of his official duties and within the scope of his authority engages in any of the businesses or activities herein described, nor to any other officer or employee of the United States Government, who in the performance of his official duties, within the scope of his authority and with the approval of the Secretary of the Treasury, engages in any of the businesses or activities herein described.

SEC. 11. (a) It shall be the duty of the Secretary of the Treasury to enforce the provisions of this Act, and he is hereby authorized to make, prescribe, and publish all necessary rules and regulations for carrying out the provisions hereof, and to confer or impose any of the rights, privileges, powers, and duties conferred or imposed upon him by this Act upon such officers or employees of the Treasury Department as he shall designate or appoint.

(b) It shall be the duty of the other departments, bureaus, and independent establishments, and particularly the Bureau of Plant Industry in the Department of Agriculture, when requested by the Secretary of the Treasury, to furnish such assistance, including technical advice, as will aid in carrying out the purposes of this Act.

SEC. 12. The provisions of this Act shall apply to the several States, the District of Columbia, the Territory of Alaska, the Territory of Hawaii, the Canal Zone, Puerto Rico, and the other insular possessions of the United States.

SEC. 13. (a) Any person who violates any provision of this Act shall be guilty of a felony and upon conviction thereof, be fined not more than \$2,000, or imprisoned not more than five years, or both, in the discretion of the court.

(b) Any person who willfully makes, aids, or assists in the making of, or procures, counsels, or advises in the preparation or presentation of, a false or fraudulent statement in any application for a license under the provisions of this Act shall (whether or not such false or fraudulent statement is made by or with the knowledge or consent of the person authorized to present the application) be guilty of a misdemeanor, and, upon conviction thereof, be fined not more than \$2,000 or imprisoned for not more than one year, or both.

SEC. 14. It shall not be necessary to negative any exemptions set forth in this Act in any complaint, information, indictment, or other writ or proceeding laid or brought under this Act and the burden of proof of any such exemption shall be upon the defendant. In the absence of the production of an appropriate license by the defendant, he shall be presumed not to have been duly licensed in accordance with this Act and the burden of proof shall be on the defendant to rebut such presumption.

Dec. 11, 1942, ch. 720, §§ 15, 16, 56
Stat. 1049

Omitted

SEC. 15. If any provision of this Act, or the application of such provision to any circumstance, shall be held invalid, the validity of the remainder of the Act and the applicability of such provision to other persons or circumstances shall not be affected thereby.

SEC. 16. This Act shall take effect on the sixtieth day after its enactment.

Dec. 11, 1942, ch. 720, § 17, 56 Stat.
1049

T. 21, § 822

The Act may be cited as the "Opium Poppy Control Act of 1942."

July 12, 1943, ch. 221, title II, § 1, 57
Stat. 500

T. 21, §§ 57, 151

* * * which may hereafter be cited as section 702A of the Federal Food, Drug, and Cosmetic Act, * * *.

Mar. 2, 1944, ch. 77, 58 Stat. 108----- T. 21, § 41

That for the purposes of the Federal Food, Drug, and Cosmetic Act of June 26, 1938 (ch. 675, sec. 1, 52 Stat. 1040), nonfat dry milk solids or defatted milk solids is the product resulting from the removal of fat and water from milk, and contains the lactose, milk proteins, and milk minerals in the same relative proportions as in the fresh milk from which made. It contains not over 5 per centum

by weight of moisture. The fat content is not over 1½ per centum by weight unless otherwise indicated.

The term "milk," when used herein, means sweet milk of cows.

Sept. 21, 1944, ch. 412, title I, § 101 (a),
58 Stat. 734

T. 21, § 552

SEC. 101. (a) The Act of May 29, 1884 (23 Stat. 31), as amended, is further amended by adding a new section thereto, to be designated section 11:

"Sec. 11. The Secretary of Agriculture, either independently or in cooperation with States or political subdivisions thereof, farmers' associations, and similar organizations, and individuals, is authorized to control and eradicate tuberculosis and paratuberculosis of animals, avian tuberculosis, Bang's disease of cattle, southern cattle ticks, hog cholera and related swine diseases, scabies in sheep and cattle, dourine in horses, and contagious or infectious diseases of animals (such as foot-and-mouth disease, rinderpest, and contagious pleuropneumonia) which in the opinion of the Secretary constitute an emergency and threaten the livestock industry of the country, including the purchase and destruction of diseased or exposed animals (including poultry), or the destruction of such animals and the payment of indemnities therefor, in accordance with such regulations as the Secretary may prescribe. As used in this section, the term 'State' includes the District of Columbia and the Territories and possessions of the United States."

(b) The Secretary of Agriculture is authorized to cooperate with State authorities in the administration of regulations for the improvement of poultry, poultry products, and hatcheries.

(c) The Secretary of Agriculture upon application of any exporter, importer, packer, or owner of, or the agent thereof, or dealer in, livestock, hides, skins, meat, or other animal products may, in his discretion, cause to be made inspections and examinations at places other than the headquarters of inspectors for the convenience of said applicants, who may be charged for the expenses of travel and subsistence incurred for such inspections and examinations, the funds derived from such charges to be deposited in the Treasury of the United States to the credit of the appropriation from which the expenses are paid.

(d) The Secretary of Agriculture may purchase in the open market from applicable appropriations samples of all tuberculin, serums, antitoxins, or analogous products, of foreign or domestic manufacture, which are sold in the United States, for the detection, prevention, treatment, or cure of diseases of domestic animals, test the same, and disseminate the results of said tests in such manner as he may deem best.

(e) Fees shall be charged for all diagnoses in connection with rabies, except those performed for agencies of the United States Government, in such amounts as the Secretary shall prescribe, and such fees shall be covered into the Treasury as miscellaneous receipts.

(f) The Secretary of Agriculture is authorized to expend appropriations for meat inspection for the purchase of printed tags, labels, stamps, and certificates without regard to existing laws applicable to public printing.

(g) There are hereby authorized to be appropriated for the purposes of this section such sums as the Congress may from time to time determine to be necessary.

July 6, 1945, ch. 281, §§ 1-3, 59 Stat. 463,
464

T. 21, §§ 72, 77, 151,

That section 301 (i) of the Federal Food, Drug, and Cosmetic Act of June 25, 1938 (21 U. S. C. 301 and the following), as amended, is amended by inserting "507" after "506,".

SEC. 2. Section 502 of such Act, as amended, is amended by adding a new paragraph at the end thereof, as follows:

"(1) If it is, or purports to be, or is represented as a drug composed wholly or partly of any kind of penicillin or any derivative thereof, unless (1) it is from a batch with respect to which a certificate or release has been issued pursuant to section 507, and (2) such certificate or release is in effect with respect to such drug: *Provided*, That this paragraph shall not apply to any drug or class of drugs exempted by regulations promulgated under section 507 (c) or (d)."

SEC. 3. Chapter V of such Act, as amended, is amended by adding a new section at the end thereof, as follows:

"CERTIFICATION OF DRUGS CONTAINING PENICILLIN

"SEC. 507. (a) The Federal Security Administrator, pursuant to regulations promulgated by him, shall provide for the certification of batches of drugs composed wholly or partly of any kind of penicillin or any derivative thereof. A batch of any such drug shall be certified if such drug has such characteristics of identity and such batch has such characteristics of strength, quality, and purity, as the Administrator prescribes in such regulations as necessary to adequately insure safety and efficacy of use, but shall not otherwise be certified. Prior to the effective date of such regulations the Administrator, in lieu of certification, shall issue a release for any batch which, in his judgment, may be released without risk as to the safety and efficacy of its use. Such release shall prescribe the date of its expiration and other conditions under which it shall cease to be effective as to such batch and as to portions thereof.

"(b) Regulations providing for such certifications shall contain such provisions as are necessary to carry out the purposes of this section, including provisions prescribing (1) standards of identity and of strength, quality, and purity; (2) tests and methods of assay to determine compliance with such standards; (3) effective periods for certificates, and other conditions under which they shall cease to be effective as to certified batches and as to portions thereof; (4) administration and procedure; and (5) such fees, specified in such regulations, as are necessary to provide, equip, and maintain an adequate certification service. Such regulations shall prescribe only such tests and methods of assay as will provide for certification or rejection within the shortest time consistent with the purposes of this section.

"(c) Whenever in the judgment of the Administrator, the requirements of this section and of section 502 (l) with respect to any drug or class of drugs are not necessary to insure safety and efficacy of use, the Administrator shall promulgate regulations exempting such drug or class of drugs from such requirements.

"(d) The Administrator shall promulgate regulations exempting from any requirement of this section and of section 502 (l), (1) drugs which are to be stored, processed, labeled, or repacked at establishments other than those where manufactured, on condition that such drugs comply with all such requirements upon removal from such establishments; (2) drugs which conform to applicable standards of identity, strength, quality, and purity prescribed by these regulations and are intended for use in manufacturing other drugs; and (3) drugs which are intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety and efficacy of drugs.

"(e) No drug which is subject to section 507 shall be deemed to be subject to any provision of section 505. Compliance of any drug subject to section 502 (l) or 507 with sections 501 (b) and 502 (g) shall be determined by the application of the standards of strength, quality, and purity, the tests and methods of assay, and the requirements of packaging and labeling, respectively, prescribed by regulations promulgated under section 507.

"(f) Any interested person may file with the Administrator a petition proposing the issuance, amendment, or repeal of any regulation contemplated by this section. The petition shall set forth the proposal in general terms and shall state reasonable grounds therefor. The Administrator shall give public notice of the proposal and an opportunity for all interested persons to present their views thereon, orally or in writing, and as soon as practicable thereafter shall make public his action upon such proposal. At any time prior to the thirtieth day after such action is made public any interested person may file objections to such action, specifying with particularity the changes desired, stating reasonable grounds therefor, and requesting a public hearing upon such objections. The Administrator shall thereupon, after due notice, hold such public hearing. As soon as practicable after completion of the hearing, the Administrator shall by order make public his action on such objections. The Administrator shall base his order only on substantial evidence of record at the hearing and shall set forth as part of the order detailed findings of fact on which the order is based. The order shall be subject to the provisions of section 701 (f) and (g)."

Feb. 28, 1947, ch. 8, §§ 1-3, 61 Stat. 7, 8----- T. 21, § 555

That the Secretary of Agriculture is authorized to cooperate with the Government of Mexico in carrying out operations or measures to eradicate, suppress, or control, or to prevent or retard, foot-and-mouth disease or rinderpest in Mexico where he deems such action necessary to protect the livestock and related industries of the United States. In performing the operations or measures herein au-

thorized, the Government of Mexico shall be responsible for the authority necessary to carry out such operations or measures on all lands and properties in Mexico and for such other facilities and means as in the discretion of the Secretary of Agriculture are necessary. The measure and character of cooperation carried out under this Act on the part of the United States and on the part of the Government of Mexico, including the expenditure or use of funds appropriated pursuant to this Act, shall be such as may be prescribed by the Secretary of Agriculture. Arrangements for the cooperation authorized by this Act shall be made through and in consultation with the Secretary of State. The authority contained in this Act is in addition to and not in substitution for the authority of existing law.

SEC. 2. For purposes of this Act, funds appropriated pursuant thereto may also be used for the purchase or hire of passenger motor vehicles and aircraft, for printing and binding without regard to section 87 of the Act of January 12, 1895, or section 11 of the Act of March 1, 1919 (U. S. C., title 44, sec. 111), for personal services in the District of Columbia and elsewhere without regard to the limitations contained in section 607 (g) of the Federal Employees Pay Act of 1945, as amended, including the employment of civilian nationals of Mexico, and for the construction and operation of research laboratories, quarantine stations and other buildings and facilities.

SEC. 3. Thirty days after the enactment of this Act, and every thirty days thereafter, the Secretary of Agriculture shall make a report to the Congress with respect to the activities carried on under this Act.

Feb. 28, 1947, ch. 8, § 4, 61 Stat. 8----- Omitted

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

Mar. 10, 1947, ch. 16, §§ 1-3, 61 Stat. T. 21, §§ 72, 77, 151
11, 12

That section 301 (j) of the Federal Food, Drug, and Cosmetic Act of June 25, 1938, as amended (U. S. C., 1940 edition, title 21, ch. 9), is amended by inserting "506, 507," after "section 404, 505,".

SEC. 2. Section 502 (l) of such Act, as amended, is amended by inserting "or streptomycin" after "penicillin".

SEC. 3. The heading of section 507 of such Act, as amended, is amended by inserting "OR STREPTOMYCIN" after "PENICILLIN"; and the first sentence of subsection (a) of such section 507 is amended by inserting "or streptomycin" after "penicillin".

July 30, 1947, ch. 356, title I, § 1 (part), T. 21, § 504
61 Stat. 531, 532

Meat inspection: For carrying out the provisions of laws relating to Federal inspection of meat and meat-food products, \$5,000,000, for deposit in the Treasury of the United States as a working capital fund, without fiscal year limitation, to be designated as the "Meat inspection fund", which shall be available for all expenses necessary to furnish an adequate and efficient inspection or service, and hereafter every person, firm, public agency, or other organization furnished inspection or service under said laws, including inspection of meat and meat-food products offered for import or export and the inspection of horse meat and horse-meat products, shall pay the United States therefor in accordance with regulations prescribed by the Secretary of Agriculture and at rates and fees to be fixed by him, which payments, to be deposited in the meat-inspection fund, shall provide full reimbursement for the estimated cost attributable to the furnishing of such inspection or service, including scientific and technical investigations and laboratory services; investigations relating to violations of, and authorized exemptions under, the laws relating to Federal meat inspection; supervisory, administrative, statistical, business management, and other costs; personal services in the District of Columbia and elsewhere, without regard to section 607 of the Federal Employees' Pay Act of 1945, as amended; rent in the District of Columbia and elsewhere; purchase and hire of passenger motor vehicles; printing and binding, including the purchase of printed tags, labels, stamps, and certificates as authorized by the Act of September 21, 1944 (7 U. S. C., 431); and other necessary expenses: *Provided*, That the Secretary of Agriculture may require advance payment, posting of bonds, or other assurance of payment, in order to protect the interests of the United States, and may withhold or withdraw such inspection or service for nonpayment of charges or fees, or failure to provide the required assurance of payment: *Provided further*, That inspection or

other technical services may be rendered to Government and other public agencies, upon request, under the terms and conditions herein provided: *Provided further*, That a schedule of obligations and reimbursements of the meat-inspection fund, as of the close of the last completed fiscal year, and as estimated for the current and ensuing fiscal years, shall be included in the Budget as submitted to Congress annually: *And provided further*, That payments shall be made for inspection or service rendered on and after July 1, 1947.

Apr. 24, 1948, ch. 229, 62 Stat. 198.....T. 21, § 553

That the Act of May 29, 1884 (23 Stat. 31), as amended, is hereby amended by adding a new section 12 reading as follows:

"Sec. 12. The Secretary of Agriculture is authorized to establish research laboratories, including the acquisition of necessary land, buildings, or facilities, and also the making of research contracts under the authority contained in section 10 (a) of the Bankhead-Jones Act of 1935, as amended by the Research and Marketing Act of 1946, for research and study, in the United States or elsewhere, of foot-and-mouth disease and other animal diseases which in the opinion of the Secretary constitute a threat to the livestock industry of the United States: *Provided*, That no live virus of foot-and-mouth disease may be introduced for any purpose into any part of the mainland of the United States except coastal islands separated therefrom by waters navigable for deep-water navigation and which shall not be connected with the mainland by any tunnel, and except further, that in the event of outbreak of foot-and-mouth disease in this country, the Secretary of Agriculture may, at his discretion, permit said virus to be brought into the United States under adequate safeguards. To carry out the provisions of this section, the Secretary is authorized to employ technical experts or scientists without regard to the Classification Act: *Provided*, That the number so employed shall not exceed five and that the maximum compensation for each shall not exceed \$15,000 per annum. There is hereby authorized to be appropriated such sums as Congress may deem necessary; in addition, the Secretary is authorized to utilize, in carrying out this section, funds otherwise available for the control or eradication of such diseases."

June 5, 1948, ch. 423, 62 Stat. 344..... T. 21, § 504

That the cost of inspection rendered on and after July 1, 1948, under the requirements of laws relating to Federal inspection of meat and meat food products shall be borne by the United States except the cost of overtime pursuant to the Act of July 24, 1919 (7 U. S. C. 394).

June 16, 1948, ch. 477, §§ 1, 2, 62 Stat. 458..... T. 21, § 556

That in order to protect, promote, and conserve livestock and livestock products and to minimize losses, the Secretary of Agriculture, either independently or in cooperation with States or subdivisions thereof, farmers' associations, and other organizations and individuals, it is authorized to increase and intensify research and investigations into problems and methods relating to the eradication of cattle grubs and to undertake measures to eradicate these parasites.

Sec. 2. As used in this Act, the term "State" includes the District of Columbia and the Territories and possessions of the United States. There is hereby authorized to be appropriated such sums as may be necessary to carry out this Act. Funds appropriated pursuant to this Act shall be expended in accordance with procedures prescribed by the Secretary.

June 24, 1948, ch. 613, §§ 1, 2, 62 Stat. 582..... T. 21, §§ 151, 154

That subsection (k) of section 301 of the Federal Food, Drug, and Cosmetic Act, as amended (21 U. S. C. 331 (k)), is amended to read as follows:

"(k) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to, a food, drug, device, or cosmetic, if such act is done while such article is held for sale (whether or not the first sale) after shipment in interstate commerce and results in such article being adulterated or misbranded."

Sec. 2. Subsection (a) of section 301 of such Act, as amended (21 U. S. C. 334 (a)), is amended by inserting immediately after the words "when introduced into or while in interstate commerce" the following: "or while held for sale (whether or not the first sale) after shipment in interstate commerce".

June 25, 1948, ch. 646, § 5, 62 Stat. 986..... Omitted

Section 3 of the Act approved February 23, 1887 (chapter 210, 24 Stat. 409, 410; 21 U. S. C., section 193), is amended by striking out the present third sentence

thereof, and by striking out the final sentence thereof and substituting in lieu of such final sentence the following:

"Every package of opium or package containing opium, either in whole or in part, brought, taken, or transported, trafficked, or dealt in contrary to the provisions of this section, shall be forfeited to the United States, for the benefit of China."

July 13, 1949, ch. 305, §§ 1, 2, 63 Stat.
409, 410

T. 21, §§ 72, 77

That section 502 (l) of the Federal Food, Drug, and Cosmetic Act of June 25, 1938, as amended (U. S. C., 1946 edition, title 21, ch. 9), is amended by deleting the word "or" preceding the word "streptomycin" and inserting in lieu thereof a comma and by inserting after the word "streptomycin" the following: ", aureomycin, chloramphenicol, or bacitracin,".

SEC. 2. (a) The heading of section 507 of such Act, as amended, is amended by deleting the word "or" preceding the word "STREPTOMYCIN" and inserting in lieu thereof a comma and by adding at the end of such heading the following: ", AUREOMYCIN, CHLORAMPHENICOL, OR BACITRACIN".

(b) The first sentence of subsection (a) of such section 507 is amended by deleting the word "or" preceding the word "streptomycin" and inserting in lieu thereof a comma and by inserting after the word "streptomycin" the following: ", aureomycin, chloramphenicol, or bacitracin,".

Oct. 18, 1949, ch. 696, §§ 1, 2, 3, 63 Stat.
882, 883

T. 21, §§ 111, 112

That subsection (a) of section 801 of the Federal Food, Drug, and Cosmetic Act, as amended (21 U. S. C. 381 (a)), is amended by striking out the period at the end of the second sentence and inserting in lieu thereof: ", except as provided in subsection (b) of this section. The Secretary of the Treasury shall cause the destruction of any such article refused admission unless such article is exported, under regulations prescribed by the Secretary of the Treasury, within ninety days of the date of notice of such refusal or within such additional time as may be permitted pursuant to such regulations."

SEC. 2. Subsection (b) of such section is amended to read:

"(b) Pending decision as to the admission of an article being imported or offered for import, the Secretary of the Treasury may authorize delivery of such article to the owner or consignee upon the execution by him of a good and sufficient bond providing for the payment of such liquidated damages in the event of default as may be required pursuant to regulations of the Secretary of the Treasury. If it appears to the Administrator that an article included within the provisions of clause (3) of subsection (a) of this section can, by relabeling or other action, be brought into compliance with the Act or rendered other than a food, drug, device, or cosmetic, final determination as to admission of such article may be deferred and, upon filing of timely written application by the owner or consignee and the execution by him of a bond as provided in the preceding provisions of this subsection, the Administrator may, in accordance with regulations, authorize the applicant to perform such relabeling or other action specified in such authorization (including destruction or export of rejected articles or portions thereof, as may be specified in the Administrator's authorization). All such relabeling or other action pursuant to such authorization shall in accordance with regulations be under the supervision of an officer or employee of the Federal Security Agency designated by the Administrator, or an officer or employee of the Department of the Treasury designated by the Secretary of the Treasury."

SEC. 3. Subsection (c) of such section is amended to read:

"(c) All expenses (including travel, per diem or subsistence, and salaries of officers or employees of the United States) in connection with the destruction provided for in subsection (a) of this section and the supervision of the relabeling or other action authorized under the provisions of subsection (b) of this section, the amount of such expenses to be determined in accordance with regulations, and all expenses in connection with the storage, cartage, or labor with respect to any article refused admission under subsection (a) of this section, shall be paid by the owner or consignee and, in default of such payment, shall constitute a lien against any future importations made by such owner or consignee."

Mar. 16, 1950, ch. 61, §§ 3, 6, 64 Stat. 20, 22

T 21, §§ 52, 58-60, 151

SEC. 3. (a) The Congress hereby finds and declares that the sale, or the serving in public eating places, of colored oleomargarine or colored margarine without clear identification as such or which is otherwise adulterated or misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act depresses the

market in interstate commerce for butter and for oleomargarine or margarine clearly identified and neither adulterated nor misbranded, and constitutes a burden on interstate commerce in such articles. Such burden exists, irrespective of whether such oleomargarine or margarine originates from an interstate source or from the State in which it is sold.

(b) Section 301 of the Federal Food, Drug, and Cosmetic Act, as amended (21 U. S. C. 331), is amended by adding a new paragraph as follows:

"(m) The sale or offering for sale of colored oleomargarine or colored margarine, or the possession or serving of colored oleomargarine or colored margarine in violation of sections 407 (b), or 407 (c)."

(c) Chapter IV of such Act, as amended (21 U. S. C. 341 and the following), is amended by adding a new section as follows:

"COLORED OLEOMARGARINE

"SEC. 407. (a) Colored oleomargarine or colored margarine which is sold in the same State or Territory in which it is produced shall be subject in the same manner and to the same extent to the provisions of this Act as if it had been introduced in interstate commerce.

"(b) No person shall sell, or offer for sale, colored oleomargarine or colored margarine unless—

"(1) such oleomargarine or margarine is packaged,

"(2) the net weight of the contents of any package sold in a retail establishment is one pound or less,

"(3) there appears on the label of the package (A) the word 'oleomargarine' or 'margarine' in type or lettering at least as large as any other type or lettering on such label, and (B) a full and accurate statement of all the ingredients contained in such oleomargarine or margarine, and

"(4) each part of the contents of the package is contained in a wrapper which bears the word 'oleomargarine' or 'margarine' in type or lettering not smaller than 20-point type.

"The requirements of this subsection shall be in addition to and not in lieu of any of the other requirements of this Act.

"(c) No person shall possess in a form ready for serving colored oleomargarine or colored margarine at a public eating place unless a notice that oleomargarine or margarine is served is displayed prominently and conspicuously in such place and in such manner as to render it likely to be read and understood by the ordinary individual being served in such eating place or is printed or is otherwise set forth on the menu in type or lettering not smaller than that normally used to designate the serving of other food items. No person shall serve colored oleomargarine or colored margarine at a public eating place, whether or not any charge is made therefor, unless (1) each separate serving bears or is accompanied by labeling identifying it as oleomargarine or margarine, or (2) each separate serving thereof is triangular in shape.

"(d) Colored oleomargarine or colored margarine when served with meals at a public eating place shall at the time of such service be exempt from the labeling requirements of section 403 (except (a) and 403 (f)) if it complies with the requirements of subsection (b) of this section.

"(e) For the purpose of this section colored oleomargarine or colored margarine is oleomargarine or margarine having a tint or shade containing more than one and six-tenths degrees of yellow, or of yellow and red collectively, but with an excess of yellow over red, measured in terms of Lovibond tintometer scale or its equivalent."

(d) Section 402 of the Federal Food, Drug, and Cosmetic Act (21 U. S. C. sec. 342) is amended by adding a new subsection (e) as follows:

"(e) If it is oleomargarine or margarine or butter and any of the raw material used therein consisted in whole or in part of any filthy, putrid, or decomposed substance, or such oleomargarine or margarine or butter is otherwise unfit for food."

SEC. 6. Nothing in this Act shall be construed as authorizing the possession, sale, or serving of colored oleomargarine, or colored margarine in any State or Territory in contravention of the laws of such State or Territory.

Oct. 26, 1951, ch. 578, §§ 1, 2, 65 Stat. 648, 649

T. 21, §§ 73, 152

That subsection (b) of section 503 of the Federal Food, Drug, and Cosmetic Act, as amended, is amended, to read as follows:

“(b) (1) A drug intended for use by man which—

“(A) is a habit-forming drug to which section 502 (d) applies; or

“(B) because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use, is not safe for use except under the supervision of a practitioner licensed by law to administer such drug; or

“(C) is limited by an effective application under section 505 to use under the professional supervision of a practitioner licensed by law to administer such drug,

shall be dispensed only (i) upon a written prescription of a practitioner licensed by law to administer such drug, or (ii) upon an oral prescription of such practitioner which is reduced promptly to writing and filed by the pharmacist, or (iii) by refilling any such written or oral prescription if such refilling is authorized by the prescriber either in the original prescription or by oral order which is reduced promptly to writing and filed by the pharmacist. The act of dispensing a drug contrary to the provisions of this paragraph shall be deemed to be an act which results in the drug being misbranded while held for sale.

“(2) Any drug dispensed by filling or refilling a written or oral prescription of a practitioner licensed by law to administer such drug shall be exempt from the requirements of section 502, except paragraphs (a), (i) (2) and (3), (k), and (l), and the packaging requirements of paragraphs (g) and (h), if the drug bears a label containing the name and address of the dispenser, the serial number and date of the prescription or of its filling, the name of the prescriber, and if stated in the prescription, the name of the patient, and the directions for use and cautionary statements, if any, contained in such prescription. This exemption shall not apply to any drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail, or to a drug dispensed in violation of paragraph (1) of this subsection.

“(3) The Administrator may by regulation remove drugs subject to section 502 (d) and section 505 from the requirements of paragraph (1) of this subsection when such requirements are not necessary for the protection of the public health.

“(4) A drug which is subject to paragraph (1) of this subsection shall be deemed to be misbranded if at any time prior to dispensing its label fails to bear the statement ‘Caution: Federal law prohibits dispensing without prescription’. A drug to which paragraph (1) of this subsection does not apply shall be deemed to be misbranded if at any time prior to dispensing its label bears the caution statement quoted in the preceding sentence.

“(5) Nothing in this subsection shall be construed to relieve any person from any requirement prescribed by or under authority of law with respect to drugs now included or which may hereafter be included within the classifications stated in section 3220 of the Internal Revenue Code (26 U. S. C. 3220), or to marihuana as defined in section 3238 (b) of the Internal Revenue Code (26 U. S. C. 3238 (b)).”

SEC. 2. Subsection (c) of section 303 of the Federal Food, Drug, and Cosmetic Act, as amended, is amended by striking out the period at the end of clause (3) and inserting in lieu thereof a semicolon and the following: “or (4) for having violated section 301 (b), (c) or (k) by failure to comply with section 502 (f) in respect to an article received in interstate commerce to which neither section 503 (a) nor section 503 (b) (1) is applicable, if the delivery or proffered delivery was made in good faith and the labeling at the time thereof contained the same directions for use and warning statements as were contained in the labeling at the time of such receipt of such article.”

Oct. 26, 1951, ch. 578, § 3, 65 Stat. 649----- Omitted

SEC. 3. The provisions of this Act shall take effect six months after the date of its enactment.

Oct. 30, 1951, ch. 637, §§ 1, 2, 65 Stat. 693, 694

T. 21, §§ 552, 564

That section 11 of the Act of Congress approved May 29, 1884, entitled “An Act for the establishment of a Bureau of Animal Industry, to prevent the exporta-

tion of diseased cattle, and to provide means for the suppression and extirpation of pleuropneumonia and other contagious diseases among domestic animals" (21 U. S. C. 114a), is hereby amended by deleting therefrom the words "Bang's disease of cattle" and substituting in lieu thereof the words "brucellosis of domestic animals".

SEC. 2. The said Act is hereby further amended by adding, at the end thereof, the following new section:

"SEC. 13. Domestic animals which have reacted to a test recognized by the Secretary of Agriculture for paratuberculosis or which, never having been vaccinated for brucellosis, have reacted to a test recognized by the Secretary of Agriculture for brucellosis, may be shipped, transported, or otherwise moved from one State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia for immediate slaughter in accordance with such rules and regulations as the Secretary of Agriculture may prescribe to prevent the dissemination of said diseases from one State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia. The Secretary of Agriculture may, in his discretion and under such rules and regulations as he may prescribe, permit domestic animals which have been moved from one State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia, for breeding purposes, and which, subsequent to such movement, have reacted to a test for brucellosis or paratuberculosis recognized by the Secretary of Agriculture, to be reshipped in interstate commerce to the original owner at the point of origin."

Aug. 5, 1953, ch. 334, 67 Stat. 389----- T. 21, § 72

That section 502 (1) of the Federal Food, Drug, and Cosmetic Act (21 U. S. C., sec. 352 (1)) is amended by striking out "aureomycin" and inserting in lieu thereof "chlortetracycline".

SEC. 2. (a) The heading of section 507 of such Act (21 U. S. C., sec. 357) is amended by striking out "AUREOMYCIN" and inserting in lieu thereof "CHLORTETRACYCLINE".

(b) The first sentence of subsection (a) of such section 507 is amended by striking out "aureomycin" and inserting in lieu thereof "chlortetracycline".

Aug. 7, 1953, ch. 350, 67 Stat. 476, 477----- T. 21, §§ 134, 151, 154

That section 704 of the Federal Food, Drug, and Cosmetic Act, as amended (21 U. S. C., sec. 374) is amended to read as follows:

"FACTORY INSPECTION

"SEC. 704. (a) For purposes of enforcement of this Act, officers or employees duly designated by the Secretary, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, are authorized (1) to enter, at reasonable times, any factory, warehouse, or establishment in which food, drugs, devices, or cosmetics are manufactured, processed, packed, or held, for introduction into interstate commerce or are held after such introduction, or to enter any vehicle being used to transport or hold such food, drugs, devices, or cosmetics in interstate commerce; and (2) to inspect, at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, establishment, or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling therein. A separate notice shall be given for each such inspection, but a notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness.

"(b) Upon completion of any such inspection of a factory, warehouse, or other establishment, and prior to leaving the premises, the officer or employee making the inspection shall give to the owner, operator, or agent in charge a report in writing setting forth any conditions or practices observed by him which, in his judgment, indicate that any food, drug, device, or cosmetic in such establishment (1) consists in whole or in part of any filthy, putrid, or decomposed substance, or (2) has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health. A copy of such report shall be sent promptly to the Secretary.

"(c) If the officer or employee making any such inspection of a factory, warehouse, or other establishment has obtained any sample in the course of the in-

spection, upon completion of the inspection and prior to leaving the premises he shall give to the owner, operator, or agent in charge a receipt describing the samples obtained.

"(d) Whenever in the course of any such inspection of a factory or other establishment where food is manufactured, processed, or packed, the officer or employee making the inspection obtains a sample of any such food, and an analysis is made of such sample for the purpose of ascertaining whether such food consists in whole or in part of any filthy, putrid, or decomposed substance, or is otherwise unfit for food, a copy of the results of such analysis shall be furnished promptly to the owner, operator, or agent in charge."

SEC. 2. Section 301 of such Act (21 U. S. C., sec. 331) is amended by adding at the end thereof the following new paragraph:

"(n) The using, in labeling, advertising or other sales promotion of any reference to any report or analysis furnished in compliance with section 704."

SEC. 3. Section 304 (c) of such Act (21 U. S. C., sec. 334) is amended to read as follows:

"(c) The court at any time after seizure up to a reasonable time before trial shall by order allow any party to a condemnation proceeding, his attorney or agent, to obtain a representative sample of the article seized and a true copy of the analysis, if any, on which the proceeding is based and the identifying marks or numbers, if any, of the packages from which the samples analyzed were obtained."

Aug. 8, 1953, ch. 381, 67th Stat. 493,
494

T. 21, § 552

That section 11 of the Act of Congress approved May 29, 1884, entitled "An Act for the establishment of a Bureau of Animal Industry, to prevent the exportation of diseased cattle, and to provide means for the suppression and extirpation of pleuropneumonia and other contagious diseases among domestic animals" (21 U. S. C. 114a) is hereby amended to read as follows:

"SEC. 11. The Secretary of Agriculture, either independently or in cooperation with States or political subdivisions thereof, farmers' associations and similar organizations, and individuals, is authorized to control and eradicate tuberculosis and paratuberculosis of animals, avian tuberculosis, brucellosis of domestic animals, southern cattle ticks, hog cholera and related swine diseases, scabies in sheep and cattle, dourine in horses, scrapie and blue tongue in sheep, incipient or potentially serious minor outbreaks of diseases of animals, and contagious or infectious diseases of animals (such as foot-and-mouth disease, rinderpest, and contagious pleuropneumonia) which in the opinion of the Secretary constitute an emergency and threaten the livestock industry of the country, including the purchase and destruction of diseased or exposed animals (including poultry), or the destruction of such animals and the payment of indemnities therefor, in accordance with such regulations as the Secretary may prescribe. As used in this section, the term 'State' includes the District of Columbia and the Territories and possessions of the United States."

Aug. 8, 1953, ch. 394, § 8, 67 Stat. 506----- T. 21, § 761

SEC. 8. Paragraph (a) of the first section of the Narcotic Drugs Import and Export Act (21 U. S. C., sec. 171 (a)) is amended to read as follows:

"(a) The term 'narcotic drug' shall have the meaning ascribed to the term 'narcotic drugs' by section 3228 (g) of the Internal Revenue Code; the term 'isonipocaine' shall have the meaning ascribed to that term by section 3228 (e) of such Code; and the term 'opiate' shall have the meaning ascribed to that term by section 3228 (f) of such Code."

Apr. 15, 1954, ch. 143, §§ 1, 2, 68 Stat.
54, 55.

Title 21, §§ 51, 131

That section 401 of the Federal Food, Drug, and Cosmetic Act (21 U. S. C., sec. 341), is amended by inserting "(a)" after "Sec. 401." and by adding at the end of such section the following new subsection:

"(b) (1) Any action under subsection (a) for the issuance, amendment, or repeal of any regulation shall be begun by a proposal made (A) by the Secretary of his own initiative, or (B) by petition of any interested person, showing reasonable grounds therefor, filed with the Secretary. The Secretary shall publish such proposal and shall afford all interested persons an opportunity to present their views thereon, orally or in writing. As soon as practicable thereafter, the Secretary shall by order act upon such proposal and shall make such order public. Except as provided in paragraph (2), the order shall become effective at such

time as may be specified therein, but not prior to the day following the last day on which objections may be filed under such paragraph.

“(2) At any time prior to the thirtieth day after the date on which an order entered under paragraph (1) is made public, any person who will be adversely affected by such order if placed in effect may file objections thereto with the Secretary, specifying with particularity the provisions of the order deemed objectionable, stating the grounds therefor, and requesting a public hearing upon such objections. Until final action upon such objections is taken by the Secretary under paragraph (3), the filing of such objections shall operate to stay the effectiveness of those provisions of the order to which the objections are made. As soon as practicable after the time for filing objections has expired the Secretary shall publish a notice in the Federal Register specifying those parts of the order which have been stayed by the filing of objections and, if no objections have been filed, stating that fact.

“(3) As soon as practicable after such request for a public hearing, the Secretary, after due notice, shall hold such a public hearing for the purpose of receiving evidence relevant and material to the issues raised by such objections. At the hearing, any interested person may be heard in person or by representative. As soon as practicable after completion of the hearing, the Secretary shall by order act upon such objections and make such order public. Such order shall be based only on substantial evidence of record at such hearing and shall set forth, as part of the order, detailed findings of fact on which the order is based. The Secretary shall specify in the order the date on which it shall take effect, except that it shall not be made to take effect prior to the ninetieth day after its publication unless the Secretary finds that emergency conditions exist necessitating an earlier effective date, in which event the Secretary shall specify in the order his findings as to such conditions. Such order shall be subject to the provisions of section 701 (f) and (g).”

SEC. 2. Section 701 (e) of the Federal Food, Drug, and Cosmetic Act is amended by striking out “401.”

COMPARATIVE TEXT OF STATUTES FOR AMENDMENT SET FORTH IN COMPLIANCE WITH RAMSEYER RULE

In compliance with paragraph 2a, clause 3 (2), of rule XIII of the Rules of the House of Representatives, a comparative print of the parts of Acts to be amended by sections 2-5 of the bill follows.

The comparative text of each proposed amendment, set forth below, is followed by a revision note explaining the necessity for the amendment. Omissions are indicated by brackets and additions by italics.

SECTION 2 OF THE BILL

Amends act May 29, 1884, ch. 60, § 1, 23 Stat. 31, as amended (7 U. S. C., 1952 ed., § 391).

Comparative text.—

There shall be in the Department of Agriculture a Bureau of Animal Industry. The Secretary of Agriculture is authorized to appoint a chief thereof, who shall be a competent veterinary surgeon [, and whose duty it shall be]. *The functions of the Bureau of Animal Industry shall be vested in the Secretary of Agriculture or, subject to his direction and control, in such officers and agencies of the Department of Agriculture as he may designate. Such functions shall include the duty to investigate and report upon the condition of the domestic animals and poultry of the United States their protection and use, and also to inquire into and report the causes of [contagious, infectious, and] communicable diseases among them, and the means for the prevention and cure of the same, and to collect such information on these subjects as shall be valuable to the agricultural and commercial interests of the country.*

Revision note.—The amendment preserves the provisions, regarding poultry, of act February 7, 1928, ch. 30, 45 Stat. 59, insofar as they related to section 391 of title 7, U. S. C., 1952 ed., Agriculture. Such act of February 7, 1928, is scheduled for repeal in this bill. The amendment incidentally also incorporates in section 391 of title 7, U. S. C. (section 1 of the 1884 act) those provisions of section 301 of 1947 Reorganization Plan No. 1, effective July 1, 1947, 12 F. R. 4534, 61 Stat. 952, which transferred the functions of the Bureau of Animal Industry to the Secretary of Agriculture, to be performed by him or, subject to his direction and control, by such officers and agencies of the Department of Agriculture as he may designate. Other provisions of section 1 of the 1884 act, which related to the "Commissioner" of Agriculture, to employment of a staff, to the salary of the Chief of the Bureau of Animal Industry, and to the appointment and salary of a clerk for such Bureau, are not shown in this comparative text as they already have been superseded by subsequent acts, including appropriation and classification acts, and were omitted from said section 391 of title 7.

Further, in this amendment, a reference to "contagious" and "infectious" diseases is omitted as covered by the general term "communicable diseases".

SECTION 3 OF THE BILL

Amends act March 28, 1928, ch. 266, § 1 (first par.), 45 Stat. 374, as amended (31 U. S. C., 1952 ed., § 529a, first par.).

Comparative text.—

That the Commissioner of Narcotics, with the approval of the Secretary of the Treasury, is authorized to direct the advance of funds by the [Division of Disbursement] *Fiscal Service*, Treasury Department, in connection with the enforcement of the Act entitled "An Act to provide for the registration of, with collectors of internal revenue, and to impose a special tax upon, all persons who produce, import, manufacture, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves, their salts, derivatives, or preparations, and for other purposes", approved December 17, 1914, as amended; [the Act entitled "An Act to amend an Act entitled 'An Act to prohibit the importation and use of opium for other than medicinal purposes', approved February 9, 1909", as amended, known as the "Narcotic Drugs Import and Export Act"'] *chapter 93 of Title 21, United States Code*; and the Act entitled "An Act to impose an occupational excise tax upon certain dealers in marihuana, to impose a transfer tax upon certain dealings in marihuana, and to safeguard the revenue therefrom by registry and recording", approved August 2, 1937, known as the "Marihuana Tax Act of 1937".

Revision note.—In this amendment, "Fiscal Service" was substituted for "Division of Disbursement" in view of 1940 Reorganization Plan No. III, § 1 (a) (1), effective June 30, 1940, 5 F. R. 2107, 54 Stat. 1231, and the reference to the Narcotic Drugs Import and Export Act was changed to refer to the chapter in revised title 21, U. S. C., in which the provisions of such act (which is scheduled for repeal in the bill) are incorporated.

SECTION 4 (a) OF THE BILL

Amends act July 1, 1944, ch. 373, title III, § 302 (a), 58 Stat. 692 (42 U. S. C., 1952 ed., § 242).

Comparative text.—

SEC. 302. (a) In carrying out the purposes of section 301 with respect to narcotics, the studies and investigations shall include the use and misuse of narcotic drugs, the quantities of crude opium, coca leaves, and their salts, derivatives, and preparations, together with reserves thereof, necessary to supply the normal and emergency medicinal and scientific requirements of the United States. The results of studies and investigations of the quantities of crude opium, coca leaves, or other narcotic drugs, together with such reserves thereof, as are necessary to supply the normal and emergency medicinal and scientific requirements of the United States, shall be reported not later than the 1st day of September each year to the Secretary of the Treasury, to be used at his discretion in determining the amounts of crude opium and coca leaves to be imported under [the Narcotic Drugs Import and Export Act, as amended] *chapter 93 of Title 21, United States Code*.

Revision note.—This amendment changes the reference to "the Narcotic Drugs Import and Export Act, as amended" to refer to the chapter in revised title 21, U. S. C., in which the provisions of such act (which is scheduled for repeal in the bill) are incorporated.

SECTION 4 (b) OF THE BILL

Amends act Aug. 9, 1938, ch. 618, § 7 (d), 53 Stat. 1292 (1293), as amended; 49 U. S. C., 1952 ed., § 787 (d).

Comparative text.—

SEC. 7. When used in this Act—

(a) The term "vessel" includes every description of watercraft or other contrivance used, or capable of being used, as means of transportation in water, but does not include aircraft;

(b) The term "vehicle" includes every description of carriage or other contrivance used, or capable of being used, as means of transportation on, below, or above the land, but does not include aircraft;

(c) The term "aircraft" includes every description of craft or carriage or other contrivance used, or capable of being used, as means of transportation through the air;

(d) The term "narcotic drug" means any narcotic drug, as now or hereafter defined by [the Narcotic Drugs Import and Export Act,] the internal-revenue laws or any amendments thereof, or the regulations issued thereunder; or marihuana as now or hereafter defined by the Marihuana Tax Act of 1937 or the regulations issued thereunder;

(e) The term "firearm" means any firearm, as now or hereafter defined by the National Firearms Act, or any amendments thereof, or the regulations issued thereunder; and

(f) The words "obligation or other security of the United States" are used as now or hereafter defined in section 8 of Title 18.

Revision note.—This amendment omits the reference to the Narcotic Drugs Import and Export Act with respect to the definition of "narcotic drug". After the amendment of that Act (corresponding provisions of which have been carried into part III of this revision) by Act Aug. 8, 1953, ch. 394, § 8, 67 Stat. 506, it no longer defined "narcotic drug", but referred, instead, to sections 3228 (e) and 3228 (g) of the Internal Revenue Code, for the definition (see section 761 of this revision). This amendment retains the reference to the "internal-revenue laws".

SECTION 5 OF THE BILL

Amends subsection (f) of section 15 of the Federal Trade Commission Act as amended (15 U. S. C., sec. 55 (f)), as added by Act Mar. 16 1950 (ch. 61, 64 Stat. 20 (21)).

Comparative text.—

SEC. 15. For the purposes of sections 12, 13, and 14—

(a) (1) The term "false advertisement" means an advertisement, other than labeling, which is misleading in a material respect; and in determining whether any advertisement is misleading, there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, sound, or any combination thereof, but also the extent to which the advertisement fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the commodity to which the advertisement relates under the conditions prescribed in said advertisement, or under such conditions as are customary or usual. No advertisement of a drug shall be deemed to be false if it is disseminated only to members of the medical profession, contains no false representation of a material fact, and includes, or is accompanied in each instance by truthful disclosure of, the formula showing quantitatively each ingredient of such drug.

(2) In the case of oleomargarine or margarine an advertisement shall be deemed misleading in a material respect if in such advertisement representations are made or suggested by statement, word, grade designation, design, device, symbol, sound, or any combination thereof, that such oleomargarine or margarine is a dairy product, except that nothing contained herein shall prevent a truthful, accurate, and full statement in any such advertisement of all the ingredients contained in such oleomargarine or margarine.

(b) The term "food" means (1) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article.

(c) The term "drug" means (1) articles recognized in the official United States Pharmacopœia, official Homœopathic Pharmacopœia of the United States, or official National Formulary, or any supplement to any of them; and (2) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (3) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and (4)

articles intended for use as a component of any article specified in clauses (1), (2), or (3); but does not include devices or their components, parts, or accessories.

(d) The term "device" (except when used in subsection (a) of this section) means instruments, apparatus, and contrivances, including their parts and accessories, intended (1) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or (2) to affect the structure or any function of the body of man or other animals.

(e) The term "cosmetic" means (1) articles to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof intended for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) articles intended for use as a component of any such article; except that such term shall not include soap.

(f) For the purposes of this section [and section 407 of the Federal Food, Drug, and Cosmetic Act, as amended], the term "oleomargarine" or "margarine" includes—

(1) all substances, mixtures, and compounds known as oleomargarine or margarine;

(2) all substances, mixtures, and compounds which have a consistence similar to that of butter and which contain any edible oils or fats other than milk fat if made in imitation or semblance of butter.

Revision note.—This amendment omits, in the opening clause of subsection (f) of section 15 of the Federal Trade Commission Act as amended, the reference to section 407 of the Federal Food, Drug, and Cosmetic Act, as amended. The reference is no longer necessary because section 59 of this revision, in which such section (21 U. S. C., 1952 ed., § 347) is set out, contains identical definitions.



H. R. 9728

[Report No. 1979]

IN THE HOUSE OF REPRESENTATIVES

JUNE 29, 1954

Mr. McCULLOCH introduced the following bill; which was referred to the Committee on the Judiciary

JUNE 29, 1954

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To revise, codify, and enact into law, title 21 of the United States Code, entitled "Food, Drugs, and Cosmetics".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 21 of the United States Code, entitled "Food, Drugs, and Cosmetics", is hereby revised, codified, and enacted into law, and may be cited as "Title 21, United States Code, § —", as follows:

TITLE 21—FOOD, DRUGS, AND COSMETICS

PART	Sec.
I. FOOD AND DRUGS GENERALLY.....	1
II. ANIMALS, POULTRY AND MEATS.....	451
III. NARCOTICS	711

PART I—FOOD, DRUGS, AND COSMETICS
GENERALLY

CHAPTER	Sec.
1. FOOD AND DRUG ADMINISTRATION.....	1
3. FOOD, DRUGS, AND COSMETICS.....	41
5. MILK AND CREAM.....	201
7. TEA IMPORTATION	261
9. CAUSTIC POISONS.....	311

CHAPTER 1—FOOD AND DRUG ADMINISTRATION

Sec.
1. Establishment.
2. Functions of Secretary of Health, Education, and Welfare.
3. Board of Tea Experts.
4. Board of Tea Appeals.

§ 1. Establishment

The Food and Drug Administration shall continue as a constituent organization of the Department of Health, Education, and Welfare.

§ 2. Functions of Secretary of Health, Education, and Welfare

The Secretary of Health, Education, and Welfare shall perform the functions prescribed for him under Part I of this title, and may from time to time make such provisions as he deems appropriate authorizing the performance of any of the functions of the Secretary by any other officer, or by any agency or employee, of the Department.

§ 3. Board of Tea Experts

Before February 16 of each year, the Secretary of Health, Education, and Welfare shall appoint a Board of Tea Experts of seven members who are experts in teas, for a term of one year subject to removal by the Secretary. The Secretary shall fill vacancies by appointment for an unexpired term.

The Board shall appoint a presiding officer, who shall be the medium of all communications to or from the Board. Each member of the Board shall receive as compensation the sum of \$50 per annum, and necessary expenses in connection with his duties under this title, to be paid by the Secretary of Health, Education, and Welfare.

§ 4. Board of Tea Appeals

The United States Board of Tea Appeals shall consist of three employees of the Department of Health, Education, and Welfare designated by the Secretary of Health, Education, and Welfare.

CHAPTER 3—FOOD, DRUGS, AND COSMETICS

SUBCHAPTER I—DEFINITIONS, DETERMINATIONS, AND REPRESENTATIONS

Sec.

41. Definitions.
42. Determination of misbranding.
43. Representation as antiseptic.
44. Short title.

SUBCHAPTER II—FOOD

51. Definitions and standards for food; procedure governing establishment; objections; hearings; applicability of other provisions.
52. Adulterated food.
53. Misbranded food.
54. Exemptions.
55. Tolerances for poisonous ingredients; certification of coal-tar colors for foods.
56. Emergency permit control.
57. Sea food; examination on request of packer; fees.
58. Colored oleomargarine; Congressional finding as to sale or serving.
59. Colored oleomargarine; sale in State where produced; packaging and labeling; service in restaurants.
60. Oleomargarine, butterine, imitation butter or cheese; application of State laws.
61. Exemption of meats and meat food products.

SUBCHAPTER III—DRUGS AND DEVICES

- 71. Adulterated drugs and devices.
- 72. Misbranded drugs and devices.
- 73. Exemptions.
- 74. Certification of coal-tar colors for drugs
- 75. New drugs.
- 76. Certification of drugs containing insulin.
- 77. Certification of drugs containing certain antibiotics.

SUBCHAPTER IV—COSMETICS

- 91. Adulterated cosmetics.
- 92. Misbranded cosmetics.
- 93. Exemptions.
- 94. Certification of coal-tar colors for cosmetics.

SUBCHAPTER V—IMPORTS AND EXPORTS

- 111. Examination and refusal of imports.
- 112. Exports adulterated or misbranded.
- 113. Suspension of adulterated imports.

SUBCHAPTER VI—ADMINISTRATIVE PROVISIONS

- 131. Regulations; hearings; judicial review.
- 132. Examinations and investigations.
- 133. Records of interstate shipment.
- 134. Factory inspection; notice; reports; receipts for samples; copies of analyses.
- 135. Publicity.
- 136. Cost of certification of coal-tar colors.
- 137. Revision of Pharmacopeia; development of analyses and tests.

SUBCHAPTER VII—ENFORCEMENT AND PENALTIES

- 151. Prohibited acts.
- 152. Penalties; exemptions.
- 153. Injunctions.
- 154. Libel for condemnation.
- 155. Hearing before violation reported.
- 156. Report of minor violations.
- 157. Proceedings in name of United States; subpoenas.

SUBCHAPTER I—DEFINITIONS, DETERMINATIONS,
REPRESENTATIONS, AND SHORT TITLE

§ 41. Definitions

As used in this chapter—

(a) “Secretary” means the Secretary of Health, Education, and Welfare.

(b) “Department” means the Department of Health, Education, and Welfare.

(c) “Butter” means the food product usually known as butter, and which is made exclusively from milk or cream, or both, with or without common salt, and with or without additional coloring matter, and containing not less than 80 per centum by weight of milk fat, all tolerances having been allowed for.

(d) “Cosmetic” means articles other than soap, (1) intended to be applied to or introduced into the human body for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) intended for use as a component of any such articles.

(e) "Device", except when used in sections 42, 53 (f), 72 (c), 92 (c), and 151 (i) of this title, means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended (1) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or (2) to affect the structure or any function of the body of man or other animals.

(f) "Drug" means (1) articles recognized in an official compendium; and (2) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (3) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and (4) articles intended for use as a component of any article specified in clauses (1), (2), or (3) of this paragraph; but does not include devices or their components, parts, or accessories.

(g) "Food" means (1) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article.

(h) "Interstate commerce" means (1) commerce between any State or Territory and any place outside thereof, and (2) commerce within the District of Columbia or within any other Territory not organized with a legislative body.

(i) "Label" means a display of written, printed, or graphic matter upon the immediate container other than a package liner, of any article; and a requirement made by or under authority of this chapter that any word, statement, or other information appear on the label shall not be considered to be complied with unless it also appears on or is easily legible through the outside container or wrapper, if any there be, of the retail package of such article.

(j) "Labeling" means all labels and other written, printed, or graphic matter (1) upon any article or any of its containers or wrappers, or (2) accompanying such article.

(k) "New drug" means—

(1) Any drug the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety of drugs, as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof, unless at any time prior to June 25, 1938, it was subject to the Food and Drugs Act of June 30, 1906, as amended, and at such time its labeling contained the same representations concerning the conditions of its use; or

(2) Any drug the composition of which is such that, as a result of investigations to determine its safety for use under such conditions, it has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.

(l) "Nonfat dry milk solids" or "defatted milk solids" is the product resulting from the removal of fat and water from the sweet milk of cows, and containing (a) the lactose, milk proteins, and milk minerals in the same relative proportions as in the fresh milk from which made, (b) not over 5 per centum by weight of moisture, and (c) not over 1½ per centum by weight of fat content unless otherwise indicated.

(m) "Official compendium" means the official United States Pharmacopœia, official Homœopathic Pharmacopeia of the United States, official National Formulary, or any supplement to any of them.

(n) "Package" includes wrapped meats inclosed in papers or other materials as prepared by the manufacturers thereof for sale.

(o) "Person" means an individual, partnership, corporation, or association.

(p) "Territory" includes the District of Columbia and any Territory or possession of the United States, but not the Canal Zone.

§ 42. Determination of misbranding

If an article is alleged to be misbranded because the labeling is misleading, there shall be taken into account, among other things, in determining whether the labeling is misleading not only representations made or suggested by statement, word, design, device, or any combination thereof, but also the extent to which the labeling fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling relates under the conditions of use prescribed in the labeling thereof or under such conditions of use as are customary or usual.

§ 43. Representation as antiseptic

The representation of a drug, in its labeling, as an antiseptic shall constitute a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or for such other use as involves prolonged contact with the body.

§ 44. Short title

This chapter may be cited as the "Federal Food, Drug, and Cosmetic Act".

SUBCHAPTER II—FOOD

§ 51. Definitions and standards for food; procedure governing establishment; objections; hearings; applicability of other provisions

(a) Whenever in the judgment of the Secretary such action will promote honesty and fair dealing in the interest of consumers, the Secretary shall promulgate regulations fixing and establishing for any food, under its common or usual name in so far as practicable, a reasonable definition and standard of identity, a reasonable standard of quality, and/or reasonable standards of fill of container.

The Secretary may not establish a definition and standard of identity or standard of quality for fresh or dried fruits, fresh or dried vegetables, or butter, but may establish definitions and standards of identity, relating only to maturity and to the effects of freezing, for avocados, cantaloupes, citrus fruits, and melons.

In prescribing any standard of fill of container, the Secretary shall give consideration to the natural shrinkage in storage and in transit of fresh natural food and to need for the necessary packing and protective material.

In prescribing any standard of quality for any canned fruit or canned vegetable, the Secretary shall give consideration to and make due allowance for the differing characteristics of the several varieties of such fruit or vegetable.

In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted, the Secretary shall, for the purpose of promoting honesty and fair dealing in the interest of consumers, designate the optional ingredients which shall be named on the label.

(b) (1) Any action under subsection (a) of this section for the issuance, amendment, or repeal of any regulation shall be begun by a proposal made (A) by the Secretary of his own initiative, or (B) by petition of any interested person, showing reasonable grounds therefor, filed with the Secretary. The Secretary shall publish the proposal and shall afford all interested persons an opportunity to present their views thereon, orally or in writing. As soon as practicable thereafter, the Secretary shall by order act upon such proposal and shall make such order public. Except as provided in paragraph (2) of this subsection the order shall become effective at such time as may be specified therein,

but not prior to the day following the last day on which objections may be filed under such paragraph.

(2) At any time prior to the thirtieth day after the date on which an order entered under paragraph (1) of this subsection is made public, any person who will be adversely affected by such order if placed in effect may file objections thereto with the Secretary, specifying with particularity the provisions of the order deemed objectionable, stating the grounds therefor, and requesting a public hearing upon such objections. Until final action upon such objections is taken by the Secretary under paragraph (3) of this subsection, the filing of such objections shall operate to stay the effectiveness of those provisions of the order to which the objections are made. As soon as practicable after the time for filing objections has expired the Secretary shall publish a notice in the Federal Register specifying those parts of the order which have been stayed by the filing of objections and, if no objections have been filed, stating that fact.

(3) As soon as practicable after such request for a public hearing, the Secretary, after due notice, shall hold such a public hearing for the purpose of receiving evidence relevant and material to the issues raised by such objections. At the hearing, any interested person may be heard in person or by representative. As soon as practicable after completion of the hearing, the Secretary shall by order act upon such objections and make such order public. Such order shall be based only on substantial evidence of record at such hearing and shall set forth, as part of the order, detailed findings of fact on which the order is based. The Secretary shall specify in the order the date on which it shall take effect, except that it shall not be made to take effect prior to the ninetieth day after its publication unless the Secretary finds that emergency conditions exist necessitating an earlier effective date, in which event the Secretary shall specify in the order his findings as to such conditions. Such order shall be subject to the provisions of section 131 (f) and (g) of this title.

§ 52. Adulterated food

A food is deemed to be adulterated—

(a) POISONOUS, INSANITARY, ETC., INGREDIENTS.—(1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health unless the substance is not an added substance and its quantity in such food does not ordinarily render it injurious to health; or (2) if it bears or contains any added poisonous or added deleterious substance which is unsafe within the meaning of section 55 of this title; or (3) if it consists in whole or

in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for food; or (4) if it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth or whereby it may have been rendered injurious to health; or (5) if it is, in whole or in part, the product of a diseased animal or of an animal which has died otherwise than by slaughter; or (6) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

(b) **ABSENCE, SUBSTITUTION, OR ADDITION OF CONSTITUENTS.**—

(1) If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or (2) if any substance has been substituted wholly or in part therefor; or (3) if damage or inferiority has been concealed in any manner; or (4) if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

(c) **UNCERTIFIED COAL-TAR COLORING.**—If it bears or contains a coal-tar color other than one from a batch that has been certified in accordance with regulations as provided by section 55 of this title. This paragraph does not apply to citrus fruit bearing or containing a coal-tar color where application for listing of such color has been made under this chapter but not acted on by the Secretary, if such color was commonly used prior to June 25, 1938, for the purpose of coloring citrus fruit.

(d) **CONFECTIONERY CONTAINING ALCOHOL OR NONNUTRITIVE SUBSTANCE.**—If it is confectionery, and it bears or contains any alcohol or nonnutritive article or substance except harmless coloring, harmless flavoring, harmless resinous glaze not in excess of four-tenths of 1 per centum, natural gum, and pectin. This paragraph does not apply to any confectionery by reason of its containing less than one-half of 1 per centum by volume of alcohol derived solely from the use of flavoring extracts, or to any chewing gum by reason of its containing harmless nonnutritive masticatory substances.

(e) **INSANITARY INGREDIENTS IN OLEOMARGARINE OR BUTTER.**—If it is oleomargarine or margarine or butter and any of the raw material used therein consisted in whole or in part of any filthy, putrid, or decomposed substance, or such oleomargarine or margarine or butter is otherwise unfit for food.

§ 53. Misbranded food

A food is deemed to be misbranded—

(a) FALSE OR MISLEADING LABELING.—If its labeling is false or misleading in any particular.

(b) OFFER FOR SALE UNDER ANOTHER NAME.—If it is offered for sale under the name of another food.

(c) IMITATION.—If it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word “imitation” and, immediately thereafter, the name of the food imitated.

(d) MISLEADING CONTAINER.—If its container is so made, formed, or filled as to be misleading.

(e) PACKAGE FORM.—If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count. Under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary.

(f) PROMINENCE OF INFORMATION ON LABEL.—If any word, statement, or other information required by or under authority of this chapter to appear on the label or labels is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(g) REPRESENTATION AS TO IDENTITY.—If it purports to be or is represented as a food for which a definition and standard of identity has been prescribed by regulations as provided by section 51 of this title, unless (1) it conforms to such definition and standard, and (2) its label bears the name of the food specified in the definition and standard, and, insofar as required by such regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such food.

(h) REPRESENTATION AS TO QUALITY AND FILL OF CONTAINER.—If it purports to be or is represented as—

(1) a food for which a standard of quality has been prescribed by regulations as provided by section 51 of this title, and its quality falls below such standard, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard; or

(2) a food for which a standard or standards of fill of container has been prescribed by regulations as provided by section 51 of this title, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard.

(i) LABEL WHERE NO REPRESENTATION AS TO STANDARD OF IDENTITY.—If it is not subject to the provisions of paragraph (g) of this section unless its label bears (1) the common or usual name of the food, if any there be, and (2) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavoring, and colorings without naming each. The Secretary shall promulgate regulations establishing exemptions to the extent that compliance with the requirements of clause (2) of this paragraph is impracticable, or results in deception or unfair competition.

(j) REPRESENTATION FOR SPECIAL DIETARY USE.—If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the Secretary by regulations prescribes as necessary in order fully to inform purchasers as to its value for such uses.

(k) ARTIFICIAL FLAVORING, ETC.; EXCEPTION OF ARTICLES FROM (g), (i), AND (k).—If it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact. The Secretary shall promulgate regulations establishing exemptions to the extent that compliance with the requirements of this paragraph is impracticable. The provisions of this paragraph and paragraphs (g) and (i) of this section with respect to artificial coloring shall not apply in the case of butter, cheese, or ice cream.

§ 54. Exemptions

The Secretary shall promulgate regulations exempting from any labeling requirement of this chapter (1) small open containers of fresh fruits and fresh vegetables and (2) food which is, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such food is not adulterated or misbranded under the provisions of this chapter upon removal from such processing, labeling, or repacking establishment.

§ 55. Tolerances for poisonous ingredients; certification of coal-tar colors for foods

(a) Any poisonous or deleterious substance added to any food, except where such substance is required in the production thereof or cannot be avoided by good manufacturing practice, shall be deemed to be unsafe for purposes of the application of clause (2) of section 52 (a) of this title. When such substance is so required or cannot be so avoided, the Secretary shall promulgate regulations limiting the quantity therein or thereon to the extent the Secretary finds necessary for the protection of public health, and any quantity exceeding the limits so fixed shall also be deemed to be unsafe for purposes of the application of clause (2) of section 52 (a) of this title. While such a regulation is in effect limiting the quantity of any such substance in the case of any food, such food shall not, by reason of bearing or containing any added amount of such substance, be considered to be adulterated within the meaning of clause (1) of section 52 (a) of this title. In determining the quantity of such added substance to be tolerated in or on different articles of food, the Secretary shall take into account the extent to which the use of such substance is required or cannot be avoided in the production of each such article and the other ways in which the consumer may be affected by the same or other poisonous or deleterious substances.

(b) The Secretary shall promulgate regulations providing for the listing of coal-tar colors which are harmless and suitable for use in food and for the certification of batches of such colors, with or without harmless diluents.

§ 56. Emergency permit control

(a) Whenever the Secretary finds after investigation that the distribution in interstate commerce of any class of food may, by reason of contamination with micro-organisms during the manufacture, processing, or packing thereof in any locality, be injurious to health, and that the injurious nature cannot be adequately determined after the articles have entered interstate commerce, the Secretary then, and in such case only, shall promulgate regulations providing for the issuance, to manufacturers, processors, or packers of such class of food in such locality, of permits to which shall be attached such conditions governing the manufacture, processing, or packing of such class of food, for the period of time necessary to protect the public health. After the effective date of such regulations, and during such period, no person shall introduce or deliver for introduction into interstate commerce any such

food unless such manufacturer, processor, or packer holds a permit issued by the Secretary as provided by such regulations.

(b) The Secretary may suspend immediately upon notice any permit issued under authority of this section if it is found that any of the conditions of the permit have been violated. The holder of a permit so suspended may at any time apply for the reinstatement thereof and the Secretary shall, immediately after prompt hearing and an inspection of the establishment, reinstate such permit if it is found that adequate measures have been taken to comply with and maintain the conditions of the permit as originally issued or as amended.

(c) Any officer or employee designated by the Secretary shall have access to any factory or establishment, the operator of which holds a permit from the Secretary, for the purpose of ascertaining whether the conditions of the permit are being complied with. If access for such inspection is denied, the Secretary may suspend the permit until such access is freely given by the operator.

§ 57. Sea food; examination on request of packer; fees

(a) Upon application of any packer of sea food for shipment or sale within the jurisdiction of this chapter, the Secretary may designate inspectors to examine and inspect such food and the production, packing, and labeling thereof. If on such examination and inspection compliance is found with the provisions of this chapter and regulations promulgated thereunder, the applicant shall be authorized or required to mark the food as provided by regulation to show such compliance. The Secretary may promulgate regulations governing the sanitary and other conditions under which the service herein provided shall be granted and maintained, and for otherwise carrying out the purposes of this section.

(b) Services under this section shall be rendered only upon payment by the applicant of fees fixed by regulation in amounts necessary to provide, equip, and maintain an adequate and efficient inspection service. Receipts from such fees shall be covered into the Treasury and shall be available to the Secretary for expenditures incurred in carrying out the purposes of this section, including salaries of additional inspectors when necessary to supplement the number for whose salaries Congress has appropriated.

§ 58. Colored oleomargarine; Congressional finding as to sale or serving

The Congress finds and declares that the sale, or the serving in public eating places, of colored oleomargarine or colored margarine without clear identification as such or which is otherwise adulterated

or misbranded within the meaning of this chapter depresses the market in interstate commerce for butter and for oleomargarine or margarine clearly identified and neither adulterated nor misbranded, and constitutes a burden on interstate commerce in such articles. Such burden exists, irrespective of whether such oleomargarine or margarine originates from an interstate source or from the State in which it is sold.

§ 59. Colored oleomargarine; sale in State where produced; packaging and labeling; service in restaurants

(a) Colored oleomargarine or colored margarine which is sold in the same State or Territory in which it is produced shall be subject in the same manner and to the same extent to the provisions of this chapter as if it had been introduced in interstate commerce.

(b) No person shall sell, or offer for sale, colored oleomargarine or colored margarine unless—

(1) such oleomargarine or margarine is packaged;

(2) the net weight of the contents of any package sold in a retail establishment is one pound or less;

(3) there appears on the label of the package (A) the word “oleomargarine” or “margarine” in type or lettering at least as large as any other type or lettering on such label and (B) a full and accurate statement of all the ingredients contained in such oleomargarine or margarine; and

(4) each part of the contents of the package is contained in a wrapper which bears the word “oleomargarine” or “margarine” in type or lettering not smaller than 20-point type.

The requirements of this subsection shall be in addition to and not in lieu of any of the other requirements of this chapter.

(c) No person shall possess in a form ready for serving colored oleomargarine or colored margarine at a public eating place unless a notice that oleomargarine or margarine is served is displayed prominently and conspicuously in such place and in such manner as to render it likely to be read and understood by the ordinary individual being served in such eating place or is printed or is otherwise set forth on the menu in type or lettering not smaller than that normally used to designate the serving of other food items. No person shall serve colored oleomargarine or colored margarine at a public eating place, whether or not any charge is made therefor, unless (1) each separate serving bears or is accompanied by labeling identifying it as oleomargarine or margarine, or (2) each separate serving thereof is triangular in shape.

(d) If colored oleomargarine or colored margarine complies with the requirements of subsection (b) of this section when served with meals at a public eating place, it shall, at the time of such service, be exempt from the requirements of section 53 of this title, except subsections (a) and (f) of such section.

(e) For the purposes of this section, colored oleomargarine or colored margarine is oleomargarine or margarine having a tint or shade containing more than one and six-tenths degrees of yellow, or of yellow and red collectively, but with an excess of yellow over red, measured in terms of the Lovibond tintometer scale or its equivalent, and the term "oleomargarine" or "margarine" includes—

(1) all substances, mixtures, and compounds known as oleomargarine or margarine;

(2) all substances, mixtures, and compounds which have a consistence similar to that of butter and which contain any edible oils or fats other than milk fat if made in imitation or semblance of butter.

§ 60. Oleomargarine, butterine, imitation butter or cheese; application of State laws

(a) Nothing in this chapter or sections 45 and 55 of Title 15 shall be construed as authorizing the possession, sale, or serving of colored oleomargarine, or colored margarine in any State or Territory in contravention of the laws of such State or Territory.

(b) All articles known as oleomargarine, butterine, imitation, process, renovated, or adulterated butter, or imitation cheese, or any substance in the semblance of butter or cheese not the usual product of the dairy and not made exclusively of pure and unadulterated milk or cream, transported into any State or Territory or the District of Columbia, and remaining therein for use, consumption, sale, or storage therein, shall, upon the arrival within the limits therein be subject to the operation and effect of the laws thereof enacted in the exercise of its police powers to the same extent and in the same manner as though such articles or substances had been produced therein, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise.

§ 61. Exemption of meats and meat food products

Meats and meat food products are exempt from the provisions of this chapter to the extent of the application or the extension thereto of sections 491–510 of this title.

SUBCHAPTER III—DRUGS AND DEVICES

§ 71. Adulterated drugs and devices

(a) POISONOUS, INSANITARY, ETC., INGREDIENTS.—

A drug or device is deemed to be adulterated—

(1) If it consists in whole or in part of any filthy, putrid, or decomposed substance; or

(2) if it has been prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth or whereby it may have been rendered injurious to health; or

(3) if it is a drug and its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or

(4) if it is a drug and bears or contains, for purposes of coloring only, a coal-tar color other than one from a batch that has been certified in accordance with regulations as provided by section 74 of this title.

(b) STRENGTH, QUALITY, OR PURITY DIFFERING FROM OFFICIAL COMPENDIUM.—If it purports to be or is represented as a drug the name of which is recognized in an official compendium, and its strength differs from, or its quality or purity falls below, the standard set forth in such compendium, determined in accordance with the tests or methods of assay set forth in such compendium. Whenever tests or methods of assay have not been prescribed in such compendium, or, if prescribed, are, in the judgment of the Secretary, insufficient for the making of such determination, the Secretary shall notify the appropriate body charged with the revision of such compendium, and if such body fails within a reasonable time to prescribe tests or methods of assay which, in the judgment of the Secretary, are sufficient for purposes of this paragraph, he shall promulgate regulations prescribing appropriate tests or methods of assay in accordance with which such determination as to strength, quality, or purity shall be made. No drug defined in an official compendium shall be deemed to be adulterated under this paragraph because it differs from the standard of strength, quality, or purity therefor set forth in such compendium, if its difference in strength, quality, or purity from such standard is plainly stated on its label. A drug recognized in both the United States Pharmacopœia and the Homœopathic Pharmacopœia of the United States shall be subject to the requirements of the United States Pharmacopœia unless it is labeled and offered for sale as a homœopathic drug, in which case it shall be subject to the provisions of the Homœopathic Pharmacopœia of the United States.

(c) **MISREPRESENTATION OF STRENGTH, ETC., WHERE DRUG IS UNRECOGNIZED IN COMPENDIUM.**—If it is not subject to the provisions of paragraph (b) of this section and its strength differs from, or its purity or quality falls below, that which it purports or is represented to possess.

(d) **MIXTURE WITH OR SUBSTITUTION OF ANOTHER SUBSTANCE.**—If it is a drug and any substance has been (1) mixed or packed therewith so as to reduce its quality or strength or (2) substituted wholly or in part therefor.

§ 72. Misbranded drugs and devices

A drug or device is deemed to be misbranded—

(a) **FALSE OR MISLEADING LABELING.**—If its labeling is false or misleading in any particular.

(b) **PACKAGE FORM; CONTENTS OF LABEL.**—If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count. Under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary.

(c) **PROMINENCE OF INFORMATION ON LABEL.**—If any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(d) **HABIT-FORMING SUBSTANCE.**—If it is for use by man and contains any quantity of the narcotic or hypnotic substance alpha eucaine, barbituric acid, betaeucaine, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, marihuana, morphine, opium, paraldehyde, peyote, or sulphonmethane; or any chemical derivative of such substance, which derivatives the Secretary, after investigation, finds to be, and by regulations designates as, habit forming; unless its label bears the name and quantity or proportion of such substance or derivative and in juxtaposition therewith the statement "Warning—May be habit forming."

(e) **DESIGNATION OF DRUG BY NAME NOT IN COMPENDIUM.**—If it is a drug not designated solely by a name recognized in an official compendium unless its label bears (1) the common or usual name of the drug, if such there be; and (2), in case it is fabricated

from two or more ingredients, the common or usual name of each active ingredient, including the quantity, kind, and proportion of any alcohol, and also including, whether active or not, the name and quantity or proportion of any bromides, ether, chloroform, acetanilid, acetphenetidin, amidopyrine, antipyrine, atropine, hyoscyne, hyoscyamine, arsenic, digitalis, digitalis glucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or any derivative or preparation of any such substances, contained therein. The Secretary shall promulgate regulations establishing exemptions to the extent that compliance with the requirements of clause (2) of this paragraph is impracticable.

(f) **DIRECTIONS FOR USE AND WARNINGS ON LABEL.**—Unless its labeling bears (1) adequate directions for use; and (2) adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in such manner and form as are necessary for the protection of users. Where any requirement of clause (1) of this paragraph, as applied to any drug or device, is not necessary for the protection of the public health, the Secretary shall promulgate regulations exempting such drug or device from such requirement.

(g) **REPRESENTATION AS RECOGNIZED DRUG; PACKING AND LABELING.**—If it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed therein. The Secretary may consent to a modification of the method of packing. A drug recognized in both the United States Pharmacopœia and the Homœopathic Pharmacopœia of the United States shall be subject to the requirements of the United States Pharmacopœia with respect to packaging and labeling unless it is labeled and offered for sale as a homœopathic drug, in which case it shall be subject to the provisions of the Homœopathic Pharmacopœia of the United States.

(h) **DETERIORATIVE DRUGS; PACKING AND LABELING.**—If it has been found by the Secretary to be a drug liable to deterioration, unless it is packaged in such form and manner, and its label bears a statement of such precautions, as the Secretary by regulations requires as necessary for the protection of the public health. The Secretary shall not establish such a regulation for any drug recognized in an official compendium until the Secretary has informed the body charged with the revision of such compendium of the need for such packaging or label-

ing requirements and such body has failed within a reasonable time to prescribe such requirements.

(i) **DRUG; MISLEADING CONTAINER; IMITATION; OFFER FOR SALE UNDER ANOTHER NAME.**—(1) If it is a drug and its container is so made, formed, or filled as to be misleading; or (2) if it is an imitation of another drug; or (3) if it is offered for sale under the name of another drug.

(j) **HEALTH-ENDANGERING WHEN USED AS PRESCRIBED.**—If it is dangerous to health when used in the dosage, or with the frequency or duration prescribed, recommended, or suggested in the labeling thereof.

(k) **INSULIN NOT PROPERLY CERTIFIED.**—If it is, or purports to be, or is represented as a drug composed wholly or partly of insulin, unless (1) it is from a batch with respect to which a certificate or release has been issued pursuant to section 76 of this title, and (2) such certificate or release is in effect with respect to such drug.

(l) **OTHER DRUGS NOT PROPERLY CERTIFIED.**—If it is, or purports to be, or is represented as a drug composed wholly or partly of any kind of penicillin, streptomycin, chlortetracycline, chloramphenicol, or bacitracin, or any derivative thereof, unless (1) it is from a batch with respect to which a certificate or release has been issued pursuant to section 77 of this title, and (2) such certificate or release is in effect with respect to such drug. This subsection does not apply to any drug or class of drugs exempted by regulations promulgated under section 77 (c) or (d) of this title.

§ 73. Exemptions

(a) The Secretary shall promulgate regulations exempting from any labeling or packing requirement of this chapter drugs and devices which are, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such drugs and devices are not adulterated or misbranded under the provisions of this chapter upon removal from such processing, labeling, or repacking establishment.

(b) (1) A drug intended for use by man which—

(A) is a habit-forming drug to which section 72 (d) of this title applies; or

(B) because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use, is not safe for use except under the supervision of a practitioner licensed by law to administer such drug; or

(C) is limited by an effective application under section 75 of this title to use under the professional supervision of a practitioner licensed by law to administer such drug, shall be dispensed only (i) upon a written prescription of a practitioner licensed by law to administer such drug, or (ii) upon an oral prescription of such practitioner which is reduced promptly to writing and filed by the pharmacist, or (iii) by refilling any such written or oral prescription, if such refilling is authorized by the prescriber either in the original prescription or by oral order which is reduced promptly to writing and filed by the pharmacist. The act of dispensing a drug contrary to the provisions of this paragraph is deemed to be an act which results in the drug being misbranded while held for sale.

(2) A drug dispensed by filling or refilling a written or oral prescription of a practitioner licensed by law to administer such drug is exempt from the requirements of section 72 of this title, except paragraphs (a), (i) (2) and (3), (k) and (l) of such section, and the packaging requirements of paragraphs (g) and (h) of such section, if the drug bears a label containing the name and address of the dispenser, the serial number and date of the prescription or of its filling, the name of the prescriber, and, if stated in the prescription, the name of the patient, and the directions for use and cautionary statements, if any, contained in such prescription. This exemption does not apply to any drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail, or to a drug dispensed in violation of paragraph (1) of this subsection.

(3) The Secretary may by regulation remove drugs subject to sections 72 (d) and 75 of this title from the requirements of paragraph (1) of this subsection when such requirements are not necessary for the protection of the public health.

(4) A drug which is subject to paragraph (1) of this subsection is deemed to be misbranded if at any time prior to dispensing its label fails to bear the statement "Caution: Federal law prohibits dispensing without prescription". A drug to which paragraph (1) of this subsection does not apply is deemed to be misbranded if at any time prior to dispensing its label bears the caution statement quoted in the first sentence of this paragraph.

(5) Nothing in this subsection shall be construed to relieve any person from any requirement prescribed by or under authority of law with respect to drugs now included or which may hereafter be

included within the classifications stated in section 3220 of the Internal Revenue Code, or to marihuana as defined in section 3238 (b) of the Internal Revenue Code.

§ 74. Certification of coal-tar colors for drugs

The Secretary shall promulgate regulations providing for the listing of coal-tar colors which are harmless and suitable for use in drugs for purposes of coloring only and for the certification of batches of such colors, with or without harmless diluents.

§ 75. New drugs

(a) **NECESSITY OF EFFECTIVE APPLICATION.**—No person shall introduce or deliver for introduction into interstate commerce any new drug, unless an application filed pursuant to subsection (b) of this section is effective with respect to such drug.

(b) **FILING APPLICATION.**—Any person may file with the Secretary an application with respect to any drug subject to subsection (a) of this section, which application shall include (1) full reports of investigations which have been made to show whether such drug is safe for use; (2) a full list of the articles used as components of such drug; (3) a full statement of the composition of such drug; (4) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such drug; (5) samples of such drug and of the articles used as components thereof as the Secretary may require; and (6) specimens of the labeling proposed to be used for such drug.

(c) **EFFECTIVE DATE OF APPLICATION.**—An application provided for in subsection (b) of this section shall become effective on the sixtieth day after the filing thereof unless prior to such day the Secretary by written notice to the applicant postpones the effective date of the application to such time, not more than one hundred and eighty days after the filing thereof, as he deems necessary to enable him to study and investigate the application.

(d) **GROUND FOR REFUSING APPLICATION TO BECOME EFFECTIVE.**—Prior to the effective date of the application, the Secretary shall issue an order refusing to permit the application to become effective if he finds, after due notice to the applicant and giving him an opportunity for a hearing, that (1) the investigations reported pursuant to subsection (b) of this section do not include adequate tests by all methods reasonably applicable to show whether such drug is safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof; (2) the results of such tests show that such

drug is unsafe for use under such conditions or do not show that such drug is safe for use under such conditions; (3) the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such drug are inadequate to preserve its identity, strength, quality, and purity; or (4) upon the basis of the information submitted to him as part of the application, or other information before him with respect to such drug, he has insufficient information to determine whether such drug is safe for use under such conditions.

(e) **SUSPENSION OF EFFECTIVENESS OF APPLICATION.**—The Secretary shall order the suspension of the effectiveness of an application with respect to any drug after due notice and opportunity for hearing to the applicant, if he finds (1) that clinical experience, tests by new methods, or tests by methods not deemed reasonably applicable when such application became effective show that such drug is unsafe for use under the conditions of use upon the basis of which the application became effective, or (2) that the application contains any untrue statement of a material fact. The order shall state the findings upon which it is based.

(f) **REVOCATION OF ORDER REFUSING EFFECTIVENESS.**—When the Secretary finds that the facts so require he shall revoke an order refusing to permit an application with respect to a drug to become effective.

(g) **SERVICE OF ORDERS.**—Orders of the Secretary issued under this section shall be served (1) in person by any officer or employee of the Department designated by the Secretary or (2) by registered mail addressed to the applicant or respondent at his last-known address in the records of the Secretary.

(h) **APPEAL FROM ORDER.**—The applicant may appeal from an order of the Secretary refusing to permit the application to become effective, or suspending the effectiveness of the application by filing in the United States district court within any district wherein such applicant resides or has his principal place of business, or in the United States District Court for the District of Columbia, within sixty days after the entry of the order, a written petition praying that the order of the Secretary be set aside. The applicant shall serve a copy of the petition forthwith upon the Secretary, or upon any officer designated by him for that purpose, and thereupon the Secretary shall certify and file in the court a transcript of the record upon which the order complained of was entered. Upon the filing of such transcript the court shall have exclusive jurisdiction to affirm or set aside such order. The court shall

not consider an objection to the order of the Secretary unless such objection was urged before the Secretary or unless there were reasonable grounds for failure so to do. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive. If any person applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence to be taken before the Secretary and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court seems proper. The Secretary may modify his findings as to the facts by reason of the additional evidence so taken, and he shall file with the court such modified findings which, if supported by substantial evidence, shall be conclusive, and his recommendations, if any, for the setting aside of the original order. The judgment and decree of the court affirming or setting aside any such order of the Secretary shall be final, subject to review as provided in sections 1254 and 1291-1294 of Title 28. The commencement of proceedings under this subsection shall not, unless specifically ordered by the court to the contrary, operate as a stay of the Secretary's order.

(i) **EXEMPTION OF DRUGS FOR RESEARCH.**—The Secretary shall promulgate regulations for exempting from the operation of this section drugs intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety of drugs.

§ 76. Certification of drugs containing insulin

(a) The Secretary, pursuant to regulations promulgated by the Secretary, shall provide for the certification of batches of drugs composed wholly or partly of insulin. A batch of any such drug shall be certified only if such drug has such characteristics of identity and such batch has such characteristics of strength, quality, and purity, as the Secretary prescribes in such regulations as necessary adequately to insure safety and efficacy of use. Prior to the effective date of such regulations the Secretary, in lieu of certification, shall issue a release for any batch which, in his judgment, may be released without risk as to the safety and efficacy of its use. Such release shall prescribe the date of its expiration and other conditions under which it shall cease to be effective as to such batch and as to portions thereof.

(b) Regulations providing for such certifications shall contain such provisions as are necessary to carry out the purposes of this section, including provisions prescribing (1) standards of identity and of strength, quality, and purity; (2) tests and methods of assay to determine compliance with such standards; (3) effective periods for certificates, and other conditions under which they shall cease to be effective as to certified batches and as to portions thereof; (4) administration and procedure; and (5) such fees, specified in such regulations, as are necessary to provide, equip, and maintain an adequate certification service. Such regulations shall prescribe no standard of identity or of strength, quality, or purity for any drug different from the standard of identity, strength, quality, or purity set forth for such drug in an official compendium.

(c) Such regulations, insofar as they prescribe tests or methods of assay to determine strength, quality, or purity of any drug, different from the tests or methods of assay set forth for such drug in an official compendium, shall be prescribed, after notice and opportunity for revision of such compendium, in the manner provided in the second sentence of section 71 (b) of this title. The provisions of subsections (e), (f), and (g) of section 131 of this title shall be applicable to such portion of any regulation as prescribes any such different test or method, but shall not be applicable to any other portion of any such regulation.

§ 77. Certification of drugs containing certain antibiotics

(a) REGULATIONS FOR CERTIFICATION.—The Secretary, pursuant to regulations promulgated by the Secretary, shall provide for the certification of batches of drugs composed wholly or partly of any kind of penicillin, streptomycin, chlortetracycline, chloramphenicol, or bacitracin, or any derivative of any of them. A batch of any such drug shall be certified only if such drug has such characteristics of identity and such batch has such characteristics of strength, quality, and purity, as the Secretary prescribes in such regulations as necessary adequately to insure safety and efficacy of use. Prior to the effective date of such regulations the Secretary, in lieu of certification, shall issue a release for any batch which, in the Secretary's judgment, may be released without risk as to the safety and efficacy of its use. Such release shall prescribe the date of its expiration and other conditions under which it shall cease to be effective as to such batch and as to portions thereof.

(b) PROVISIONS OF REGULATIONS.—Regulations providing for such

certifications shall contain such provisions as are necessary to carry out the purposes of this section, including provisions prescribing (1) standards of identity and of strength, quality, and purity; (2) tests and methods of assay to determine compliance with such standards; (3) effective periods for certificates, and other conditions under which they shall cease to be effective as to certified batches and as to portions thereof; (4) administration and procedure; and (5) such fees, specified in such regulations, as are necessary to provide, equip, and maintain an adequate certification service. Such regulations shall prescribe only such tests and methods of assay as will provide for certification or rejection within the shortest time consistent with the purposes of this section.

(c) **EXEMPTION OF DRUGS NOT INVOLVING SAFETY AND EFFICACY OF USE.**—Whenever in the judgment of the Secretary, the requirements of this section and of section 72 (l) of this title with respect to any drug or class of drugs are not necessary to insure safety and efficacy of use, the Secretary shall promulgate regulations exempting such drug or class of drugs from such requirements.

(d) **OTHER EXEMPTIONS.**—The Secretary shall promulgate regulations exempting from any requirement of this section and of section 72 (l) of this title, (1) drugs which are to be stored, processed, labeled, or repacked at establishments other than those where manufactured, on condition that such drugs comply with all such requirements upon removal from such establishments; (2) drugs which conform to applicable standards of identity, strength, quality, and purity prescribed by these regulations and are intended for use in manufacturing other drugs; and (3) drugs which are intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety and efficacy of drugs.

(e) **APPLICATION OF OTHER SECTIONS; DETERMINATION OF COMPLIANCE.**—No drug which is subject to this section shall be subject to section 75 of this title. Compliance of any drug subject to this section or to section 72 (l) of this title with sections 71 (b) and 72 (g) of this title shall be determined by the application of the standards of strength, quality, and purity, the tests and methods of assay, and the requirements of packaging and labeling, respectively, prescribed by regulations promulgated under this section.

(f) **PROCEDURE FOR ISSUANCE, AMENDMENT, OR REPEAL OF REGULATIONS.**—Any interested person may file with the Secretary a petition proposing the issuance, amendment, or repeal of any regulation con-

templated by this section. The petition shall set forth the proposal in general terms and shall state reasonable grounds therefor. The Secretary shall give public notice of the proposal and an opportunity for all interested persons to present their views thereon, orally or in writing, and as soon as practicable thereafter shall make public the Secretary's action upon such proposal. At any time prior to the thirtieth day after such action is made public any interested person may file objections to such action, specifying with particularity the changes desired, stating reasonable grounds therefor, and requesting a public hearing upon such objections. The Secretary shall thereupon, after due notice, hold such public hearing. As soon as practicable, after completion of the hearing, the Secretary shall by order make public the Secretary's action on such objections. The order shall be based only on substantial evidence of record at the hearing and shall include detailed findings of fact on which it is based. The order shall be subject to the provisions of section 131 (f) and (g) of this title.

SUBCHAPTER IV—COSMETICS

§ 91. Adulterated cosmetics

A cosmetic is deemed to be adulterated—

(a) If it bears or contains any poisonous or deleterious substance which may render it injurious to users under the conditions of use prescribed in the labeling thereof, or under such conditions of use as are customary or usual. This provision does not apply to coal-tar hair dye, the label of which bears the following legend conspicuously displayed thereon: "Caution—This product contains ingredients which may cause skin irritation on certain individuals and a preliminary test according to accompanying directions should first be made. This product must not be used for dyeing the eyelashes or eyebrows; to do so may cause blindness.", and the labeling of which bears adequate directions for such preliminary testing. For the purposes of this paragraph and paragraph (e) of this section the term "hair dye" does not include eyelash dyes or eyebrow dyes.

(b) If it consists in whole or in part of any filthy, putrid, or decomposed substance.

(c) If it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth or whereby it may have been rendered injurious to health.

(d) If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

(e) If it is not a hair dye and it bears or contains a coal-tar color other than one from a batch that has been certified in accordance with regulations as provided by section 94 of this title.

§ 92. Misbranded cosmetics

A cosmetic is deemed to be misbranded—

(a) If its labeling is false or misleading in any particular.

(b) If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count. Under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary.

(c) If any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(d) If its container is so made, formed, or filled as to be misleading.

§ 93. Exemptions

The Secretary shall promulgate regulations exempting from any labeling requirement of this chapter cosmetics which are, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such cosmetics are not adulterated or misbranded under the provisions of this chapter upon removal from such processing, labeling, or repacking establishment.

§ 94. Certification of coal-tar colors for cosmetics

The Secretary shall promulgate regulations providing for the listing of coal-tar colors which are harmless and suitable for use in cosmetics and for the certification of batches of such colors, with or without harmless diluents.

SUBCHAPTER V—IMPORTS AND EXPORTS

§ 111. Examination and refusal of imports

(a) The Secretary of the Treasury shall deliver to the Secretary of Health, Education, and Welfare, upon the latter Secretary's request, samples of food, drugs, devices, and cosmetics which are being imported

or offered for import into the United States, giving notice thereof to the owner or consignee, who may appear before the Secretary of Health, Education, and Welfare and have the right to introduce testimony. If it appears from the examination of such samples or otherwise that the article (1) has been manufactured, processed, or packed under insanitary conditions, or (2) is forbidden or restricted in sale in the country in which it was produced or from which it was exported, or (3) is adulterated, misbranded, or in violation of section 75 of this title, the Secretary of the Treasury shall refuse to admit the article, except as provided in subsection (b) of this section. He shall cause the destruction of any such article refused admission unless it is exported, under regulations prescribed by him, within ninety days of the date of notice of such refusal or within such additional time permitted pursuant to such regulations. This subsection does not prohibit the admission of narcotic drugs the importation of which is permitted under section 763 of this title.

(b) Pending decision as to the admission of an article being imported or offered for import, the Secretary of the Treasury may authorize delivery of such article to the owner or consignee upon the execution by him of a good and sufficient bond providing for the payment of such liquidated damages in the event of default as may be required pursuant to regulations of the Secretary of the Treasury. If it appears to the Secretary of Health, Education, and Welfare that an article included within the provisions of clause (3) of subsection (a) of this section can, by relabeling or other action, be brought into compliance with this chapter or rendered other than a food, drug, device, or cosmetic, the Secretary of the Treasury may defer final determination as to admission of such article and, upon filing of timely written application by the owner or consignee and the execution by him of a bond as provided in the preceding provisions of this subsection, the Secretary of Health, Education, or Welfare may, in accordance with regulations, authorize the applicant to perform such relabeling or other action specified in such authorization (including destruction or export of rejected articles or portions thereof, as may be specified in the latter Secretary's authorization). All such relabeling or other action pursuant to such authorization shall in accordance with regulations be under the supervision of an officer or employee of the Department of Health, Education, and Welfare designated by the Secretary of that Department, or an officer or employee of the Department of the Treasury designated by the Secretary of the Treasury.

(c) The owner or consignee shall pay all expenses, including travel, per diem or subsistence, and salaries of officers or employees of the United States, determined in accordance with regulations, in connection with the destruction provided for in subsection (a) of this section and the supervision of the relabeling or other action authorized under subsection (b) of this section, and all expenses in connection with the storage, cartage, or labor with respect to any article refused admission under subsection (a) of this section. In default of payment, expenses specified in this subsection shall constitute a lien against any future importations made by such owner or consignee.

§ 112. Exports adulterated or misbranded

A food, drug, device, or cosmetic intended for export is not deemed to be adulterated or misbranded under this chapter if it (1) accords to the specifications of the foreign purchaser, (2) is not in conflict with the laws of the country to which it is intended for export, and (3) is labeled on the outside of the shipping package to show that it is intended for export. Such article sold or offered for sale in domestic commerce, is not exempt from any of the provisions of this chapter.

§ 113. Suspension of adulterated imports

Whenever the President is satisfied that there is good reason to believe that any importation is being made, or is about to be made, into the United States, from any foreign country, of any article used for human food or drink that is adulterated to an extent dangerous to the health or welfare of the people of the United States, or any of them, he may issue his proclamation suspending the importation of such articles from such country for such period of time as he believes necessary to prevent such importation. During such period no person shall import any of such articles into the United States from the countries designated in the proclamation of the President.

SUBCHAPTER VI—ADMINISTRATIVE PROVISIONS

§ 131. Regulations; hearings; judicial review

(a) **REGULATIONS AUTHORIZED.**—The Secretary may promulgate regulations for the efficient enforcement of this chapter, except as otherwise provided in this section.

(b) **IMPORTS AND EXPORTS.**—The Secretary of the Treasury and the Secretary of Health, Education, and Welfare shall jointly prescribe regulations for the efficient enforcement of the provisions of sections 111 and 112 of this title, except as otherwise provided therein, in such manner and to take effect at such time, after due notice, as the Secretary of Health, Education, and Welfare determines.

(c) **CONDUCT OF HEARINGS.**—The Secretary or such officer or employee as he designates shall conduct the hearings authorized or required by this chapter.

(d) **STANDARDS OF IDENTITY IN OTHER LAWS.**—The definitions and standards of identity promulgated in accordance with the provisions of this chapter shall be effective for the purposes of the enforcement of this chapter, notwithstanding such definitions and standards as may be contained in other laws of the United States and regulations promulgated thereunder.

(e) **HEARINGS ON REGULATIONS.**—The Secretary, on his own initiative or upon an application of any interested industry or substantial portion thereof stating reasonable grounds therefor, shall hold a public hearing upon a proposal to issue, amend, or repeal any regulation contemplated by sections 53 (j), 55 (a), 55 (b), 56 (a), 71 (b), 72 (d), 72 (h), 74, and 94 of this title.

The Secretary shall give appropriate notice of the hearing, setting forth the proposal in general terms and specifying the time and place for the hearing not less than thirty days after the date of the notice, except that the public hearing on regulations under section 56 (a) of this title may be held within a reasonable time, to be fixed by the Secretary, after notice thereof. At the hearing any interested person may be heard in person or by his representative. As soon as practicable after completion of the hearing, the Secretary shall by order make public his action in issuing, amending, or repealing the regulation or determining not to take such action. Such order shall be based only on substantial evidence of record at the hearing and shall include detailed findings of fact on which it is based. No such order shall take effect prior to the ninetieth day after it is issued, except that if the Secretary finds that emergency conditions exist necessitating an earlier effective date, then the Secretary shall specify in the order the Secretary's findings as to such conditions and the order shall take effect at such earlier date as the Secretary specifies.

(f) **JUDICIAL REVIEW.**—(1) In a case of actual controversy as to the validity of any order under subsection (e) of this section, any person who will be adversely affected by such order if placed in effect may at any time prior to the ninetieth day after such order is issued file a petition with the United States Court of Appeals for the circuit wherein such person resides or has his principal place of business, for a judicial review of such order. The summons and petition may be served at any place in the United States. The Secretary, promptly upon service of

the summons and petition, shall certify and file in the court the transcript of the proceedings and the record on which the Secretary based the order.

(2) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence, and evidence in rebuttal thereof, to be taken before the Secretary, and to be adduced upon the hearing, in such manner and upon such terms and conditions as the court deems proper. The Secretary may modify the Secretary's findings as to the facts, or make new findings, by reason of the additional evidence so taken, and file such modified or new findings, and the Secretary's recommendation, if any, for the modification or setting aside of the Secretary's original order, with the return of such additional evidence.

(3) The court may affirm the order, or set it aside in whole or in part, temporarily or permanently. If the order of the Secretary refuses to issue, amend, or repeal a regulation and such order is not in accordance with law the court shall by its judgment order the Secretary to take action, with respect to such regulation, in accordance with law. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive.

(4) The judgment of the court affirming or setting aside, in whole or in part, any such order of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of Title 28.

(5) Any action instituted under this subsection shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

(6) The remedies provided for in this subsection shall be in addition to, and not in substitution for, any other remedies provided by law.

(g) COPIES OF RECORDS OF HEARINGS.—The Secretary shall furnish a certified copy of the transcript of the record and proceedings under subsection (e) of this section to any interested party at his request, on payment of the costs thereof. Such copy shall be admissible in any criminal, libel for condemnation, exclusion of imports, or other proceeding arising under or in respect to this chapter, irrespective of whether proceedings with respect to the order have previously been instituted or become final under subsection (f) of this section.

§ 132. Examinations and investigations

(a) The Secretary may conduct examinations and investigations for the purposes of this chapter through officers and employees of the Department or through any health, food, or drug officer or employee of any State, Territory, or political subdivision thereof, duly commissioned by the Secretary as an officer of the Department. In the case of food packed in a Territory the Secretary shall attempt to make inspection of such food at the first point of entry within the United States when, in his opinion and with due regard to the enforcement of all the provisions of this chapter, the facilities at his disposal will permit of such inspection. For the purposes of this subsection the term "United States" means the States and the District of Columbia.

(b) Where a sample of a food, drug, or cosmetic is collected for analysis under this chapter, the Secretary shall, upon request provide a part of such official sample for examination or analysis by any person named on the label of the article, or the owner thereof, or his attorney or agent; except that the Secretary may, by regulations, make such reasonable exceptions from, and impose such reasonable terms and conditions relating to, the operation of this subsection as he finds necessary for the proper administration of the provisions of this chapter.

(c) For purposes of enforcement of this chapter, records of any department or independent establishment in the executive branch of the Government shall be open to inspection by any official of the Department of Health, Education, and Welfare authorized by the Secretary to make such inspection.

§ 133. Records of interstate shipment

For the purpose of enforcing the provisions of this chapter, carriers engaged in interstate commerce, and persons receiving food, drugs, devices, or cosmetics in interstate commerce or holding such articles so received, shall, upon the request of an officer or employee duly designated by the Secretary, permit him, at reasonable times, to have access to and to copy all records showing the movement in interstate commerce of any food, drug, device, or cosmetic, or the holding thereof during or after such movement, and the quantity, shipper, and consignee thereof. It shall be unlawful for any such carrier or person to fail to permit such access to and copying of any such record so requested when such request is accompanied by a statement in writing specifying the nature or kind of food, drug, device, or cosmetic to which such request

relates. Evidence obtained under this section shall not be used in a criminal prosecution of the person from whom it is obtained.

Carriers shall not be subject to the other provisions of this chapter by reason of their receipt, carriage, holding, or delivery of food, drugs, devices, or cosmetics in the usual course of business as carriers.

§ 134. Factory inspection; notice; reports; receipts for samples; copies of analyses

(a) For purposes of enforcement of this chapter, officers or employees duly designated by the Secretary, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, may (1) enter, at reasonable times, any factory, warehouse, or establishment in which food, drugs, devices, or cosmetics are manufactured, processed, packed, or held, for introduction into interstate commerce or are held after such introduction, or enter any vehicle being used to transport or hold such food, drugs, devices, or cosmetics in interstate commerce; and (2) inspect, at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, establishment, or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling therein. A separate notice shall be given for each such inspection, but a notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness.

(b) Upon completion of any such inspection of a factory, warehouse, or other establishment, and prior to leaving the premises, the officer or employee making the inspection shall give to the owner, operator, or agent in charge a report in writing setting forth any conditions or practices observed by him which, in his judgment, indicate that any food, drug, device, or cosmetic in such establishment (1) consists in whole or in part of any filthy, putrid, or decomposed substance, or (2) has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health. A copy of such report shall be sent promptly to the Secretary.

(c) If the officer or employee making any such inspection of a factory, warehouse, or other establishment has obtained any sample in the course of the inspection, upon completion of the inspection and prior to leaving the premises he shall give to the owner, operator, or agent in charge a receipt describing the samples obtained.

(d) Whenever in the course of any such inspection of a factory or

other establishment where food is manufactured, processed, or packed, the officer or employee making the inspection obtains a sample of any such food, and an analysis is made of such sample for the purpose of ascertaining whether such food consists in whole or in part of any filthy, putrid, or decomposed substance, or is otherwise unfit for food, a copy of the results of such analysis shall be furnished promptly to the owner, operator, or agent in charge.

§ 135. Publicity

(a) The Secretary shall cause to be published from time to time reports summarizing all judgments, decrees, and court orders rendered under this chapter, including the nature of the charge and the disposition thereof.

(b) The Secretary may also cause to be disseminated information regarding food, drugs, devices, or cosmetics in situations involving, in the Secretary's opinion, imminent danger to health or gross deception of the consumer. Nothing in this section shall be construed to prohibit the Secretary from collecting, reporting, and illustrating the results of the investigations of the Department.

§ 136. Cost of certification of coal-tar colors

The admitting to listing and certification of coal-tar colors, in accordance with regulations prescribed under this chapter, shall be performed only upon payment of fees specified in such regulations, as may be necessary to provide, maintain, and equip an adequate service for such purposes.

§ 137. Revision of Pharmacopeia; development of analyses and tests

The Secretary, in carrying into effect the provisions of this chapter, may cooperate with associations and scientific societies in the revision of the United States Pharmacopeia and in the development of methods of analysis and mechanical and physical tests necessary to carry out the work of the Food and Drug Administration.

SUBCHAPTER VII—ENFORCEMENT AND PENALTIES

§ 151. Prohibited acts

The following acts and the causing thereof are prohibited:

(a) The introduction or delivery for introduction into interstate commerce of any food, drug, device, or cosmetic that is adulterated or misbranded.

(b) The adulteration or misbranding of any food, drug, device, or cosmetic in interstate commerce.

(c) The receipt in interstate commerce of any food, drug, device, or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise.

(d) The introduction or delivery for introduction into interstate commerce of any article in violation of section 56 or 75 of this title.

(e) The refusal to permit access to or copying of any record as required by section 133 of this title.

(f) The refusal to permit entry or inspection as authorized by section 134 of this title.

(g) The manufacture within any Territory of any food, drug, device, or cosmetic that is adulterated or misbranded.

(h) The giving of a guaranty or undertaking referred to in section 152 (c) (2) of this title which is false, except by a person who relied upon a guaranty or undertaking to the same effect signed by, and containing the name and address of, the person residing in the United States from whom he received in good faith the food, drug, device, or cosmetic; or the giving of a guaranty or undertaking referred to in section 152 (c) (3) of this title which guaranty or undertaking is false.

(i) Forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp, tag, label, or other identification device authorized or required by regulations promulgated under the provisions of sections 55 (b), 56, 57, 74, 76, 77, or 94 of this title.

(j) The using by any person to his own advantage, or revealing, other than to the Secretary or officers or employees of the Department, or to the courts when relevant in any judicial proceeding under this chapter, any information acquired under authority of sections 56, 75, 76, 77, or 134 of this title concerning any method or process which as a trade secret is entitled to protection.

(k) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to, a food, drug, device, or cosmetic, if such act is done while such article is held for sale (whether or not the first sale) after shipment in interstate commerce and results in such article being adulterated or misbranded.

(l) The using, on the labeling of any drug or in any advertising relating to such drug, of any representation or suggestion that an application with respect to such drug is effective under section 75 of this title, or that such drug complies with the provisions of such section.

(m) The sale or offering for sale of colored oleomargarine or colored margarine, or the possession or serving of colored oleomargarine or colored margarine in violation of subsection (b) or (c) of section 59 of this title.

(n) The using, in labeling, advertising, or other sales promotion, of any reference to any report or analysis furnished in compliance with section 134 of this title.

§ 152. Penalties; exemptions

(a) Any person who violates any of the provisions of section 151 of this title shall be imprisoned not more than one year or fined not more than \$1,000, or both. Any person who commits such a violation after one conviction under this section has become final shall be imprisoned not more than three years or fined not more than \$10,000, or both.

(b) Notwithstanding the provisions of subsection (a) of this section, any person who violates any of the provisions of section 151 of this title, with intent to defraud or mislead, shall be imprisoned not more than three years or fined not more than \$10,000, or both.

(c) No person shall be subject to the penalties of subsection (a) of this section—

(1) for having received in interstate commerce any article and delivered it or proffered delivery of it, if such delivery or proffer was made in good faith, unless he refuses to furnish on request of an officer or employee duly designated by the Secretary the name and address of the person from whom he purchased or received such article and copies of all documents, if any, pertaining to the delivery of the article to him; or

(2) for having violated section 151 (a) or 151 (d) of this title, if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person residing in the United States from whom he received the article in good faith, to the effect, in case of an alleged violation of section 151 (a) of this title, that such article is not adulterated or misbranded, within the meaning of this chapter, designating this chapter, or to the effect, in case of an alleged violation of section 151 (d) of this title, that such article is not an article which may not, under the provisions of section 56 or 75 of this title, be introduced into interstate commerce; or

(3) for having violated section 151 (a) of this title, where the violation exists because the article is adulterated by reason of containing a coal-tar color not from a batch certified in accordance with the Secretary's regulations, if such person establishes a guaranty or

undertaking signed by, and containing the name and address of, the manufacturer of the coal-tar color, to the effect that such color was from a batch certified in accordance with the applicable regulations promulgated by the Secretary under this chapter; or

(4) for having violated section 151 (b), 151 (c), or 151 (k) of this title by failure to comply with section 72 (f) of this title in respect to an article received in interstate commerce to which neither section 73 (a) nor section 73 (b) (1) is applicable, if the delivery or proffered delivery was made in good faith and the labeling at the time thereof contained the same directions for use and warning statements as were contained in the labeling at the time of such receipt of such article.

§ 153. Injunctions

(a) The United States district courts and the United States courts of the Territories shall have jurisdiction, for cause shown, and subject to the provisions of Rule 65 (a) (b) of the Federal Rules of Civil Procedure, to restrain violations of section 151 of this title, except paragraphs (5), (6), (8), (9), and (10), thereof.

(b) Any violation of an injunction or restraining order issued under this section, which also constitutes a violation of this chapter, shall be tried by the court, or, upon demand of the accused, by a jury, in accordance with the practice and procedure applicable in the case of proceedings subject to the provisions of section 402 of Title 18.

§ 154. Libel for condemnation

(a) **GROUND AND JURISDICTION.**—Any article of food, drug, device, or cosmetic that is adulterated or misbranded when introduced into or while in interstate commerce or while held for sale (whether or not the first sale) after shipment in interstate commerce, or which may not, under the provisions of section 56 or 75 of this title, be introduced into interstate commerce, shall be liable to be proceeded against while in interstate commerce, or at any time thereafter, on libel of information and condemned in any district court of the United States within the jurisdiction of which the article is found.

(b) **PROCEDURE.**—The article shall be liable to seizure by process pursuant to the libel, and the procedure in cases under this section shall conform, as nearly as may be, to the procedure in admiralty; except that on demand of either party any issue of fact joined in any such case shall be tried by jury.

(c) **LIBELS FOR MISBRANDING LIMITED; CHANGE OF VENUE.**—No libel for condemnation for any alleged misbranding shall be instituted under this chapter, if there is pending in any court a libel

for condemnation proceeding under this chapter based upon the same alleged misbranding, and not more than one such proceeding shall be instituted if no such proceeding is so pending, except that such limitations shall not apply—

(1) when such misbranding has been the basis of a prior judgment in favor of the United States, in a criminal, injunction, or libel for condemnation proceeding under this chapter, or

(2) when the Secretary has probable cause to believe from facts found, without hearing, by him or any officer or employee of the Department that the misbranded article is dangerous to health, or that the labeling of the misbranded article is fraudulent, or would be in a material respect misleading to the injury or damage of the purchaser or consumer.

In any case where the number of libel for condemnation proceedings is limited as above provided the proceeding pending or instituted shall, on application of the claimant, seasonably made, be removed for trial to any district agreed upon by stipulation between the parties, or, in case of failure to so stipulate within a reasonable time, the claimant may apply to the court of the district in which the seizure has been made, and such court, after giving the United States attorney for such district reasonable notice and opportunity to be heard, shall by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the claimant's principal place of business, to which the case shall be removed for trial.

(d) CONSOLIDATION OF MULTIPLE PROCEEDINGS.—When libel for condemnation proceedings under this section, involving the same claimant and the same issues of adulteration or misbranding, are pending in two or more jurisdictions, such pending proceedings, upon application of the claimant seasonably made to the court of one such jurisdiction, shall be consolidated for trial by order of such court, and tried in (1) any district selected by the claimant where one of such proceedings is pending; or (2) a district agreed upon by stipulation between the parties. If no order for consolidation is so made within a reasonable time, the claimant may apply to the court of one such jurisdiction, and such court, after giving the United States attorney for such district reasonable notice and opportunity to be heard, shall by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the claimant's principal place of business, in which all such pending proceedings shall be consolidated for trial and tried. Such order of consolidation

shall not apply so as to require the removal of any case the date for trial of which has been fixed. The court granting such order shall give prompt notification thereof to the other courts having jurisdiction of the cases covered thereby.

(e) REMOVAL FOR TRIAL.—In the case of removal for trial of any case as provided by subsection (c) or (d) of this section—

(1) The clerk of the court from which removal is made shall promptly transmit to the court in which the case is to be tried all records in the case necessary in order that such court may exercise jurisdiction.

(2) The court to which such case is removed shall have the powers and be subject to the duties, for purposes of the case, which the court from which removal is made would have, or to which such court would be subject, if such case is not removed.

(f) SAMPLES OF SEIZED GOODS.—The court at any time after seizure up to a reasonable time before trial shall by order allow any party to a condemnation proceeding, his attorney or agent, to obtain a representative sample of the article seized and a true copy of the analysis, if any, on which the proceeding is based and the identifying marks or numbers, if any, of the packages from which the samples analyzed were obtained.

(g) DISPOSITION AFTER CONDEMNATION.—Any food, drug, device, or cosmetic condemned under this section shall, after entry of the decree, be disposed of by destruction or sale as the court may direct in accordance with the provisions of this section. If sold, the proceeds thereof, less the legal costs and charges, shall be paid into the Treasury of the United States. Such article shall not be sold under such decree contrary to the provisions of this chapter or the laws of the jurisdiction in which sold. After entry of the decree and upon the payment of the costs of such proceedings and the execution of a good and sufficient bond conditioned that such article shall not be sold or disposed of contrary to the provisions of this chapter or the laws of any State or Territory in which sold, the court may by order direct that such article be delivered to the owner thereof to be destroyed or brought into compliance with the provisions of this chapter under the supervision of an officer or employee duly designated by the Secretary, and the expenses of such supervision shall be paid by the person obtaining release of the article under bond. Any article condemned by reason of its being an article which may not, under section 56

or 75 of this title, be introduced into interstate commerce, shall be disposed of by destruction.

(h) **COSTS.**—When a decree of condemnation is entered against the article, court costs and fees, and storage and other proper expenses, shall be awarded against the person, if any, intervening as claimant of the article.

§ 155. Hearing before violation reported

Before any violation of this chapter is reported by the Secretary to any United States attorney for institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his views, either orally or in writing, with regard to such contemplated proceeding.

§ 156. Report of minor violations

Nothing in this chapter shall be construed as requiring the Secretary to report for prosecution, or for the institution of libel or injunction proceedings, minor violations of this chapter whenever the Secretary believes that the public interest will be adequately served by a suitable written notice or warning.

§ 157. Proceedings in name of United States; subpoenas

All proceedings for the enforcement, or to restrain violations, of this chapter shall be by and in the name of the United States. Subpoenas for witnesses who are required to attend a court of the United States, in any district, may run into any other district in any such proceeding.

CHAPTER 5—MILK AND CREAM

SUBCHAPTER I—IMPORTATION OF MILK AND CREAM

Sec.

201. Definitions.

202. Permits for importation.

203. Unfitness for importation.

204. Inspection, issue of permits; regulations.

205. Penalties.

206. State powers concerning milk and cream.

207. Short title.

SUBCHAPTER II—FILLED MILK

Sec.

221. Definitions.

222. Filled milk; Congressional finding concerning.

223. Regulations.

224. Penalties.

225. Short title.

SUBCHAPTER I—IMPORTATION OF MILK AND CREAM**§ 201. Definitions**

As used in this subchapter—

(a) “Person” means an individual, partnership, corporation, or association.

(b) “United States” means the continental United States.

§ 202. Permits for importation

No person shall import milk and cream into the United States unless the person by whom it is shipped or transported holds a valid permit from the Secretary of Health, Education, and Welfare.

§ 203. Unfitness for importation

Milk or cream shall be considered unfit for importation—

(a) when all cows producing such milk or cream are not healthy and a physical examination of all such cows has not been made within one year previous to such milk being offered for importation;

(b) when such milk or cream, if raw, is not produced from cows which have passed a tuberculin test applied by a duly authorized official veterinarian of the United States, or of the country in which such milk or cream is produced, within one year previous to the time of the importation, showing that such cows are free from tuberculosis;

(c) when the sanitary conditions of the dairy farm or plant in which it is produced or handled do not score at least fifty points out of one hundred points according to the current methods for scoring as provided by the score cards used by the United States Department of Agriculture;

(d) if the number of bacteria per cubic centimeter exceeds in the case of raw milk three hundred thousand, in the case of raw cream seven hundred and fifty thousand, and in the case of pasteurized milk one hundred thousand, and in the case of pasteurized cream five hundred thousand;

(e) when the temperature of milk or cream at the time of importation exceeds fifty degrees Fahrenheit.

§ 204. Inspection; issue of permits; regulations

(a) The Secretary of Health, Education, and Welfare shall cause such inspections to be made as are necessary to insure that milk and cream are produced and handled in compliance with section 203 of this title. When the Secretary finds that milk or cream is produced and handled so as not to be unfit for importation under clauses (1), (2), and (3) of section 203 of this title, the Secretary shall issue to persons making application therefor permits to ship milk or cream into the United

States. In lieu of the inspections to be made by or under the direction of the Secretary, the Secretary may, in the Secretary's discretion, accept a duly certified statement signed by a duly accredited official of an authorized department of any foreign government or of any State of the United States or any municipality thereof that the provisions in clauses (1), (2), and (3) of section 203 of this title have been complied with. Such certificate shall be in the form prescribed by the Secretary.

(b) The Secretary may, in the Secretary's discretion, waive the requirements of paragraph (4) of section 203 of this title when issuing permits to operators of condenseries in which milk or cream is used when sterilization of the milk or cream is a necessary process, except that no milk or cream shall be imported the bacterial count of which per cubic centimeter in any event exceeds one million two hundred thousand. Such requirements shall not be waived unless the farm producing such milk to be imported is within a radius of fifteen miles of the condensery in which it is to be processed. If milk or cream imported when the requirements of section 203, paragraph (4), of this title, have been so waived, is sold, used, or disposed of in its raw state or otherwise than as condensed milk by any person, the permit shall be revoked and the importer shall be subject to fine, imprisonment, or other penalty prescribed by this subchapter.

(c) The Secretary shall waive the requirements of paragraphs (2) and (5) of section 203 of this title insofar as the same relate to milk when issuing permits to operators of, or to producers for delivery to, creameries and condensing plants in the United States within twenty miles of the point of production of the milk, and who import no raw milk except for pasteurization or condensing. If milk imported when the requirements of paragraphs (2) and (5) of section 203 of this title have been so waived is sold, used, or disposed of in its raw state, or otherwise than as pasteurized, condensed, or evaporated milk by any person, the permit shall be revoked and the importer shall be subjected to fine, imprisonment, or other penalty prescribed by this subchapter.

(d) The Secretary shall make and enforce such regulations as the Secretary deems necessary to carry out the purpose of this subchapter for the issuance of permits to import milk and cream, for the handling of milk and cream, for the inspection of milk, cream, cows, barns, and other facilities used in the production and handling of milk and cream, and for the handling, keeping, transporting, and importing of milk and cream. Unless and until the Secretary provides

for inspections to ascertain that paragraphs (1), (2), and (3) of section 203 of this title have been complied with, the Secretary shall issue temporary permits to any applicants therefor to ship or transport milk or cream into the United States.

(e) The Secretary may suspend or revoke any permit for the shipment of milk or cream into the United States when the Secretary finds that the holder thereof has failed to comply with the provisions of, or has violated, this subchapter, or any of the regulations made under this subchapter, or that the milk or cream brought or shipped by the holder of such permit into the United States is not produced and handled in conformity with, or that the quality thereof does not conform to, all of the provisions of section 203 of this title.

§ 205. Penalties

(a) No person in the United States shall receive milk or cream imported into the United States unless the importation is in accordance with the provisions of this subchapter.

(b) Any person who knowingly violates any provision of this subchapter shall, in addition to all other penalties prescribed by law, be fined not more than \$2,000 or imprisoned not more than one year, or both.

§ 206. State powers concerning milk and cream

Nothing in this subchapter shall be construed to affect the powers of any State, or any political subdivision thereof, to regulate the shipment of milk or cream into, or the handling, sale, or other disposition of milk or cream in, such State or political subdivision after the milk or cream has been lawfully imported under this subchapter.

§ 207. Short title

This subchapter may be cited as the "Federal Import Milk Act".

SUBCHAPTER II—FILLED MILK

§ 221. Definitions

As used in this subchapter—

(a) "Filled milk" means any milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat, so that the resulting product is in imitation or semblance of milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated. This definition does not include any distinctive proprie-

tary food compound not readily mistaken in taste for milk or cream or for evaporated, condensed, or powdered milk, or cream where such compound (1) is prepared and designed for feeding infants and young children and customarily used on the order of a physician; (2) is packed in individual cans containing not more than sixteen and one-half ounces and bearing a label in bold type that the content is to be used only for such purpose; and (3) is shipped in interstate or foreign commerce exclusively to physicians, wholesale and retail druggists, orphan asylums, child-welfare associations, hospitals, and similar institutions and generally disposed of by them.

(b) "Interstate or foreign commerce" means commerce (1) between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; (2) between points within the same State, Territory, or possession, or within the District of Columbia, but through any place outside thereof; or (3) within any Territory or possession, or within the District of Columbia.

(c) "Person" means an individual, partnership, corporation, or association.

§ 222. Filled milk; Congressional finding concerning

Filled milk is an adulterated article of food, injurious to the public health, and its sale constitutes a fraud upon the public.

§ 223. Regulations

The Secretary of Health, Education, and Welfare shall make and enforce such regulations as the Secretary deems necessary to carry out the purposes of this subchapter.

§ 224. Penalties

Any person who manufactures within any Territory or possession, or within the District of Columbia, or ships or delivers for shipment in interstate or foreign commerce, any filled milk, shall be fined not more than \$1,000 or imprisoned not more than one year, or both. When construing and enforcing the provisions of this subchapter, the act, omission, or failure of any person acting for or employed by any individual, partnership, corporation, or association, within the scope of his employment or office, shall in every case be deemed the act, omission, or failure, of each individual, partnership, corporation, or association, as well as of such person.

§ 225. Short title

This subchapter may be cited as the "Federal Filled Milk Act".

CHAPTER 7—TEA IMPORTATION

- Sec.**
- 261. Substandard tea importation; materials for manufacturing.
 - 262. Standards; duplicate samples.
 - 263. Importer's bonds and fees; sampling and examination.
 - 264. Permit for delivery; inferior grades; partial delivery.
 - 265. Examiners.
 - 266. Examination according to usages of trade.
 - 267. Re-examination by Appeals Board; disposition of tea.
 - 268. Procedure for re-examination; assistance of experts.
 - 269. Reimporting rejected teas; forfeitures.
 - 270. Regulations.
 - 271. Short title.

§ 261. Substandard tea importation; materials for manufacturing

(a) No person shall import or bring into the United States any merchandise as tea which is inferior in purity, quality, and fitness for consumption to the standards provided in section 262 of this title.

(b) Nothing in this chapter shall affect or prevent the importation into the United States, under such regulations as the Secretary of Health, Education, and Welfare prescribes, of any merchandise as tea which may be inferior in purity, quality, and fitness for consumption to the standards established by the Secretary, or of any tea waste, tea siftings, or tea sweepings, for the sole purpose of manufacturing theine, caffeine, or other chemical products whereby the identity and character of the original material is entirely destroyed or changed. Importers and manufacturers who import such tea, tea waste, tea siftings, or tea sweepings into the United States shall give suitable bond, to be subject to the approval only of the collector of customs at the port of entry, conditioned that said imported material shall be used only for the purposes provided in this subsection, under such regulations as may be prescribed by the Secretary.

§ 262. Standards; duplicate samples

The Board of Tea Experts shall prepare and submit standard samples of tea to the Secretary of Health, Education, and Welfare who, upon the Board's recommendation, shall fix and establish uniform standards of purity, quality, and fitness for consumption of all kinds of teas imported into the United States. The Secretary shall procure and deposit in the customhouses of the ports of New York, Chicago, San Francisco, and such other ports as the Secretary may determine, duplicate samples of such standards, and the Secretary shall procure a sufficient number of other duplicate samples to supply the importers and dealers in tea at all ports desiring the same at cost. All teas, or merchandise described as tea, of inferior purity, quality, and fitness for consumption to such standards shall be deemed within the prohibition of section 261 of this title.

§ 263. Importer's bonds and fees; sampling and examination

(a) On making entry at the customhouse of all teas, or merchandise described as tea, imported into the United States, the importer or consignee shall give a bond to the collector of the port that such merchandise shall not be removed from the warehouse until released by the collector, after it shall have been duly examined with reference to its purity, quality, and fitness for consumption. For the purpose of such examination samples of each line in every invoice of tea shall be submitted by the importer or consignee to the examiner, together with the sworn statement of such importer or consignee that such samples represent the true quality of each part of the invoice and accord with the specifications therein contained, or in the discretion of the Secretary, such samples shall be obtained by the examiner and compared by him with the standards established by this chapter. Where entry is made at ports where there is no qualified examiner as provided in section 265 of this title, the consignee or importer shall furnish such samples and sworn statement to the collector or other revenue officer to whom is committed the collection of duties, who shall also draw or cause to be drawn samples of each line in every invoice and shall forward the same to a duly qualified examiner as provided in that section. The bond required by this section shall also be conditioned for the payment of all customhouse charges which may attach to such merchandise prior to its being released or destroyed, as the case may be, under the provisions of this chapter.

(b) The collector shall not examine for importation, or release, any tea, or merchandise described as tea, under this chapter unless the importer or consignee thereof, prior to such examination, has paid for deposit into the Treasury of the United States as miscellaneous receipts, a fee of 3.5 cents for each hundred weight or fraction thereof of such tea and merchandise.

§ 264. Permit for delivery; inferior grades; partial delivery

If, after an examination as provided in section 263 of this title, the tea is found by the examiner to be equal in purity, quality, and fitness for consumption to the standards provided in this chapter, and no reexamination is demanded by the collector as provided in section 267 of this title, a permit shall at once be granted to the importer or consignee declaring the tea free from the control of the customs authorities. If tea, or merchandise described as tea, is found, in the opinion of the examiner, to be inferior in purity, quality, and

fitness for consumption to such standards, the importer or consignee shall be immediately notified, and the tea, or merchandise described as tea, shall not be released by the customhouse, unless on a reexamination called for by the importer or consignee the finding of the examiner is found to be erroneous. If a portion of the invoice is passed by the examiner, a permit shall be granted for that portion and the remainder held for further examination, as provided in said section 267.

§ 265. Examiners

The examination provided for by this chapter shall be made by a duly qualified examiner at a port where standard samples are established. Where the merchandise is entered at ports where there is no qualified examiner, the examination shall be made at that one of said ports which is nearest the port of entry, and for this purpose samples obtained in the manner prescribed by section 263 of this title shall be forwarded to the proper port by the collector or chief officer at the port of entry.

§ 266. Examination according to usages of trade

In all cases of examination or reexamination of teas, or merchandise described as tea, by examiners or the United States Board of Tea Appeals under the provisions of this chapter, the purity, quality, and fitness for consumption of the same shall be tested according to the usages and customs of the tea trade, including the testing of an infusion of the same in boiling water, and, if necessary, chemical analysis.

§ 267. Reexamination by Appeals Board; disposition of tea

(a) If the collector, importer, or consignee protests against the finding of the examiner, the matter in dispute shall be referred for decision to the United States Board of Tea Appeals.

(b) If the Board, after examination, finds the tea in question to be equal in purity, quality, and fitness for consumption to the proper standards, the collector shall issue a permit for its release and delivery to the importer.

(c) If upon final reexamination by the Board the tea is found to be inferior in purity, quality, and fitness for consumption to the said standards, the importer or consignee shall give a bond, with security satisfactory to the collector, to export said tea, or merchandise described as tea, out of the limits of the United States within a period of six months after such final reexamination, and if the same has not been exported within the time specified, the collector, at the expiration of that time, shall cause the same to be destroyed.

§ 268. Procedure for reexamination; assistance of experts

In cases of reexamination of teas, or merchandise described as teas, by the United States Board of Tea Appeals in pursuance of the provisions of this chapter, the examiner shall put up and seal samples of the tea, or merchandise described as tea, in dispute, in the presence of the importer or consignee if he so desires, and transmit them to the Board, together with a copy of his finding, setting forth the cause of condemnation and the claim or ground of the protest of the importer relating to the same. Such samples and papers shall be distinguished by an identifying mark.

The decision of the Board shall be in writing, signed by its members, and transmitted with the record and samples to the collector within three days after its rendition. The collector shall forthwith furnish the examiner and the importer or consignee with a copy of such decision.

The United States Board of Tea Appeals may obtain the advice, when necessary, of persons skilled in the examination of teas, who shall each receive for his services in any particular case a compensation not exceeding \$5.

§ 269. Reimporting rejected teas; forfeiture

No imported teas which have been rejected by an examiner or by the United States Board of Tea Appeals, and exported under the provisions of this chapter, shall be reimported into the United States. Any such teas so reimported shall be forfeited.

§ 270. Regulations

The Secretary of Health, Education, and Welfare may enforce this chapter by appropriate regulations.

§ 271. Short title

This chapter and sections 3 and 4 of this title may be cited as the "Federal Import Tea Act".

CHAPTER 9—CAUSTIC POISONS

Sec.

311. Definitions.

312. Misbranded shipments.

313. Misbranded imports.

314. Removal of labels.

315. Enforcement.

316. Libel for condemnation.

317. Penalties.

318. Institution of condemnation and criminal proceedings.

319. Construction; application of other provisions.

320. Short title.

§ 311. Definitions

As used in this chapter, unless the context otherwise requires—

(a) “Dangerous caustic or corrosive substance” means:

(1) hydrochloric acid and any preparation containing free or chemically unneutralized hydrochloric acid (HCl) in a concentration of 10 per centum or more;

(2) sulphuric acid and any preparation containing free or chemically unneutralized sulphuric acid (H_2SO_4) in a concentration of 10 per centum or more;

(3) nitric acid or any preparation containing free or chemically unneutralized nitric acid (HNO_3) in a concentration of 5 per centum or more;

(4) carbolic acid ($\text{C}_6\text{H}_5\text{OH}$), otherwise known as phenol, and any preparation containing carbolic acid in a concentration of 5 per centum or more;

(5) oxalic acid and any preparation containing free or chemically unneutralized oxalic acid ($\text{H}_2\text{C}_2\text{O}_4$) in a concentration of 10 per centum or more;

(6) any salt of oxalic acid and any preparation containing any such salt in a concentration of 10 per centum or more;

(7) acetic acid or any preparation containing free or chemically unneutralized acetic acid ($\text{HC}_2\text{H}_3\text{O}_2$) in a concentration of 20 per centum or more;

(8) hypochlorous acid, either free or combined, and any preparation containing the same in a concentration so as to yield 10 per centum or more by weight of available chlorine, excluding calx chlorinata, bleaching powder, and chloride of lime;

(9) potassium hydroxide and any preparation containing free or chemically unneutralized potassium hydroxide (KOH), including caustic potash and Vienna paste, in a concentration of 10 per centum or more;

(10) sodium hydroxide and any preparation containing free or chemically unneutralized sodium hydroxide (NaOH), including caustic soda and lye, in a concentration of 10 per centum or more;

(11) silver nitrate, sometimes known as lunar caustic, and any preparation containing silver nitrate (AgNO_3) in a concentration of 5 per centum or more; and

(12) ammonia water and any preparation containing free or chemically uncombined ammonia (NH_3), including ammonium hydroxide and “hartshorn”, in a concentration of 5 per centum or more.

(b) “Misbranded parcel, package, or container” means a retail parcel, package, or container of any dangerous caustic or corrosive substance not bearing a conspicuous, easily legible label or sticker, containing—

(1) the common name of the substance;

(2) the name and place of business of the manufacturer, packer, seller, or distributor;

(3) the word “poison”, running parallel with the main body of reading matter on the label or sticker, on a clear, plain background of a distinctly contrasting color, in uncondensed gothic capital letters, the letters to be not less than twenty-four-point size unless there is on the label or sticker no other type so large, in which event the type shall be not smaller than the largest type on the label or sticker; and

(4) directions for treatment in case of accidental personal injury by any dangerous caustic or corrosive substance, except that such directions need not appear on labels or stickers, on parcels, packages, or containers at the time of shipment or of delivery for shipment by manufacturers and wholesalers for other than household use.

(c) “Interstate or foreign commerce” means commerce (1) between any State, Territory, or possession, or the District of Columbia, and any place outside thereof, or (2) between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof, or (3) within any Territory or possession, or the District of Columbia.

(d) “Person” means an individual, partnership, corporation, or association.

§ 312. Misbranded shipments

(a) No person shall ship or deliver for shipment in interstate or foreign commerce or receive from shipment in such commerce any dangerous caustic or corrosive substance for sale or exchange, or sell or offer for sale any such substance in any Territory or possession or in the District of Columbia, in a misbranded parcel, package, or container suitable for household use.

(b) The provisions of subsection (a) of this section do not apply—

(1) to any regularly established common carrier shipping or delivering for shipment, or receiving from shipment, any such substance in the ordinary course of its business as a common carrier; nor

(2) to any person in respect of any such substance shipped or delivered for shipment, or received from shipment, for export to any

foreign country, in a parcel, package, or container branded in accordance with the specifications of a foreign purchaser and in accordance with the laws of the foreign country ; nor

(3) to any dealer who establishes a guaranty signed by, and containing the name and address of, the wholesaler, jobber, manufacturer, or other party residing in the United States, from whom he purchased such articles, to the effect that the articles are not misbranded within the meaning of this chapter. In such case the person giving such guaranty shall be amenable to the prosecutions, fines, and other penalties which would otherwise attach, in due course, to the dealer under the provisions of this chapter.

§ 313. Misbranded imports

(a) Whenever any dangerous caustic or corrosive substance is offered for importation and the Secretary of Health, Education, and Welfare has reason to believe that such substance is being shipped in interstate or foreign commerce in violation of section 312 of this title, the Secretary shall give due notice and opportunity for hearing thereon to the owner or consignee and certify such fact to the Secretary of the Treasury, who shall thereupon either (1) refuse admission and delivery to the consignee of such substance, or (2) deliver such substance to the consignee pending examination, hearing, and decision in the matter, on the execution of a penal bond to the amount of the full invoice value of such substance, together with the duty thereon, if any, and to the effect that on refusal to return such substance for any cause to the Secretary of the Treasury when demanded, for the purpose of excluding it from the country or for any other purpose, the consignee shall forfeit the full amount of the bond.

(b) If, after proceeding in accordance with subsection (a) of this section, the Secretary is satisfied that such substance offered for importation was shipped in interstate or foreign commerce in violation of any provision of this chapter, the Secretary shall certify the fact to the Secretary of the Treasury, who shall thereupon notify the owner or consignee and cause the sale or other disposition of such substance refused admission and delivery or entered under bond, unless it is exported by the owner or consignee or labeled by him so as to conform to the law within three months from the date of such notice, under such regulations as the Secretary of the Treasury may prescribe. All charges for storage, cartage, or labor on any such substance refused admission or delivery or entered upon bond shall be paid by the owner or consignee. In default of such payment such charges shall constitute

a lien against any future importations made by such owner or consignee.

§ 314. Removal of labels

No person shall alter, mutilate, destroy, obliterate, or remove any label or sticker required by this chapter to be placed on any dangerous caustic or corrosive substance, if such substance is being—

- (1) shipped in interstate or foreign commerce; or
- (2) held for sale or exchange after having been so shipped; or
- (3) held for sale or exchange in any Territory or possession or in the District of Columbia.

§ 315. Enforcement

(a) Except as otherwise specifically provided in this chapter, the Secretary of Health, Education, and Welfare shall enforce its provisions.

(b) For enforcing the provisions of sections 313, 316, and 317 of this title, the Secretary may cause investigations, inspections, analyses, and tests to be made and samples to be collected, of any dangerous caustic or corrosive substance. The Department of Health, Education and Welfare shall pay to the person entitled, upon his request, the reasonable market value of any such sample taken. If it appears from the inspection, analysis, or test of any dangerous caustic or corrosive substance that such substance is in a misbranded package, parcel, or container suitable for household use, the Secretary shall cause notice thereof to be given to any person who may be liable for any violation of section 312 or 314 of this title in respect of such substance. Any person so notified shall be given an opportunity to be heard under the Secretary's regulations. If it appears that such person has violated the provisions of section 312 or 314 of this title, the Secretary shall at once certify the facts to the proper United States attorney, with a copy of the results of the inspection, analysis, or test duly authenticated under oath by the person making it.

(c) For the enforcement of his functions under this chapter the Secretary may—

- (1) prescribe and promulgate necessary regulations;
- (2) cooperate with any department or agency of the Government, with any State, Territory, or possession, or with the District of Columbia, or with any department, agency, or political subdivision thereof, or with any person;
- (3) appoint officers and employees necessary for the execution of this chapter and fix their salaries in accordance with the Classification Act of 1949;

(4) make such expenditures, including expenditures for personal services and rent at the seat of government and elsewhere, and for law books, books of reference, and periodicals, required for the execution of the Secretary's functions under this chapter and as provided for by the Congress from time to time; and

(5) give notice, by publication in such manner as the Secretary prescribes by regulation, of the judgment of the court in any case under the provisions of this chapter.

§ 316. Libel for condemnation

(a) Any dangerous caustic or corrosive substance in a misbranded parcel, package, or container suitable for household use shall be liable to be proceeded against in the United States district court for any judicial district in which the substance is found and to be seized for confiscation by a process of libel for condemnation, if such substance is being—

- (1) shipped in interstate or foreign commerce, or
- (2) held for sale or exchange after having been so shipped, or
- (3) held for sale or exchange in any Territory or possession or in the District of Columbia.

(b) If such substance is condemned as misbranded by the court it shall be disposed of in the discretion of the court—

- (1) by destruction;
- (2) by delivery to the owner thereof upon the payment of legal costs and charges and execution and delivery of a good and sufficient bond to the effect that such substance will not be sold or otherwise disposed of in any jurisdiction contrary to the provisions of this chapter or the laws of such jurisdiction.

(3) by sale. The proceeds of the sale, less legal costs and charges, shall be paid into the Treasury as miscellaneous receipts. Such substance shall not be sold in any jurisdiction contrary to the provisions of this chapter or the laws of such jurisdiction, and the court may require the purchaser at any such sale to label such substance in compliance with law before the delivery thereof; or

(c) Proceedings in such libel cases shall conform, as nearly as may be, to suits in rem in admiralty, except that either party may demand trial by jury on any issue of fact if the value in controversy exceeds \$20. In case of a jury trial the verdict of the jury shall have the same effect as a finding of the court upon the facts. All such proceedings shall be at the suit and in the name of the United States.

§ 317. Penalties

(a) Any person who violates any provision of section 312 or 314 of this title shall be fined not more than \$1,000 or imprisoned not more than one year, or both. Any person who commits such a violation after one conviction under this section has become final shall be fined not more than \$10,000 or imprisoned not more than three years, or both.

(b) Notwithstanding the provisions of subsection (a) of this section, any person who violates any provision of section 312 or 314 of this title, with intent to defraud or mislead, shall be fined not more than \$10,000 or imprisoned not more than three years, or both.

§ 318. Institution of condemnation and criminal proceedings

Each United States attorney to whom the Secretary shall report any violation of section 312 or 314 of this title or to whom any health, medical, or drug officer or agent of any State, Territory, or possession, or of the District of Columbia presents satisfactory evidence of any such violation, shall cause libel for condemnation and criminal proceedings under sections 316 and 317 of this title to be commenced and prosecuted in the proper court of the United States, without delay, for the enforcement of the condemnation and penalties provided in such sections.

§ 319. Construction; application of other provisions

(a) This chapter is not to be construed as modifying or limiting in any way the right of any person to manufacture, pack, ship, sell, barter, and distribute dangerous caustic or corrosive substances in parcels, packages, or containers, labeled as required by this chapter.

(b) The provisions of this chapter shall be held to be in addition to and not in substitution for the provisions of the following:

- (1) chapter 3 of this title;
- (2) chapter 6 of Title 7;
- (3) the Act entitled “An Act to regulate the practice of pharmacy and the sale of poisons in the District of Columbia, and for other purposes”, approved May 7, 1906, as amended.

§ 320. Short title

This chapter may be cited as the “Federal Caustic Poison Act”.

PART II.—ANIMALS, POULTRY AND MEATS

CHAPTER	Sec.
51. DEPARTMENT OF AGRICULTURE.....	451
53. MEAT INSPECTION.....	491
55. ANIMAL AND POULTRY DISEASE PREVENTION ; TRANSPORTATION, IMPORT, AND EXPORT.....	551
57. SERUMS AND ANALOGOUS PRODUCTS.....	611

CHAPTER 51—DEPARTMENT OF AGRICULTURE

Sec.

451. Administration of Part II; delegation of functions.

§ 451. Administration of Part II; delegation of functions

The provisions of this part shall be administered by the Secretary of Agriculture, except as otherwise provided herein. Such Secretary's functions under this part shall be performed by him or, subject to his direction and control, by such officers and agencies of the Department of Agriculture as he designates.

CHAPTER 53—MEAT INSPECTION

Sec.

491. Definitions.

492. Ante-mortem inspections.

493. Post-mortem inspections.

494. Meat food products.

495. Canning or packing meats and products; labels.

496. Inspection of establishments.

497. Time of inspections.

498. Meat for export; inspection; clearance.

499. Inspector's certificates.

500. Inspection, stamps or marks.

501. Farmers and retail butchers and dealers, exemptions.

502. Inspectors; appointment, powers, and duties.

503. Regulations.

504. Cost of inspections.

505. Transportation of uninspected and unmarked articles.

506. Transportation or sale in violation of chapter.

507. Forgery or misuse of marks or certificates.

508. Penalties generally.

509. Penalty for sale or transportation of unfit products by exempted persons.

510. Bribery; acceptance of gifts.

511. Horse meat.

512. Dairy products for export.

513. Reindeer.

§ 491. Definitions

As used in this chapter—

(a) "establishment" means a slaughtering, canning, salting, packing, rendering, or similar establishment;

(b) "farmer" means any natural person or partnership chiefly engaged in producing agricultural products on whose farm the number of cattle, calves, sheep, lambs, swine, or goats is in keeping with the size of the farm or with the volume or character of the agricultural products produced thereon, but does not mean any person or partnership engaged in producing agricultural products who—

(1) actively engages in buying or trading in cattle, calves, sheep, lambs, swine, or goats; or

(2) actively engages, directly or indirectly, in conducting a business which includes the slaughter of cattle, calves, sheep, lambs, swine, or goats for food purposes; or

(3) actively engages, directly or indirectly, in buying or selling meat or meat food products other than those prepared by any farmer on the farm; or

(4) actively engages, directly or indirectly, in salting, curing, or canning meat, or in preparing sausage, lard, or other meat food products; or

(5) slaughters, or permits any person to slaughter, on his or their farm cattle, calves, sheep, lambs, swine, or goats which are not actually owned by him or them;

(c) "inspector" means an inspector appointed by the Secretary of Agriculture under the provisions of this chapter;

(d) "retail butcher" or "retail dealer" means any person chiefly engaged in selling meat or meat food products to consumers only, except that the Secretary, at his discretion, may permit any retail butcher or retail dealer to transport in interstate or foreign commerce to consumers and meat retailers in any one week not more than five carcasses of cattle, twenty-five carcasses of calves, twenty carcasses of sheep, twenty-five carcasses of lambs, ten carcasses of swine, twenty carcasses of goats, or twenty-five carcasses of goat kids, or the equivalent of fresh meat therefrom, and to transport in interstate or foreign commerce to consumers only meat and meat food products which have been salted, cured, canned, or prepared as sausage, lard, or other meat food products, and which have not been inspected, examined, and marked as "Inspected and Passed" in accordance with this chapter and with the Secretary's rules and regulations;

5. "Secretary" means the Secretary of Agriculture.

§ 492. Ante-mortem inspections

For the purpose of preventing the use in interstate or foreign commerce of meat and meat food products which are unsound, unhealthful, unwholesome, or otherwise unfit for human food, the Secretary may cause to be made an examination and inspection of all cattle, sheep, swine, and goats, the meat and meat food products of which are to be used in interstate or foreign commerce, before they are allowed to enter into any establishment in which they are to be slaughtered. All such animals found on such inspection to show symptoms of disease shall be set apart and slaughtered separately from all other such animals. When so slaughtered the carcasses of such animals shall be subject to a careful examination and inspection, under the Secretary's rules and regulations, as provided for in this chapter.

§ 493. Post-mortem inspections

For the purpose set forth in section 492 of this title the Secretary shall cause to be made a post-mortem examination and inspection of the carcasses and parts thereof of all cattle, sheep, swine, and goats, which are to be prepared for human consumption at any establishment in any State or Territory or the District of Columbia for transportation or sale as articles of interstate or foreign commerce.

The carcasses and parts thereof of all such animals found to be sound, healthful, wholesome, and fit for human food shall be marked, stamped, tagged, or labeled as "Inspected and Passed".

All carcasses and parts thereof found to be unsound, unhealthful, unwholesome, or otherwise unfit for human food shall be marked, stamped, tagged, or labeled as "Inspected and Condemned", and all carcasses and parts thereof thus inspected and condemned shall be destroyed for food purposes by the establishment in the presence of an inspector.

After the first inspection, the inspectors shall, when they deem it necessary, reinspect the carcasses or parts thereof and if upon such reinspection any carcass or any part thereof is found to be unsound, unhealthful, unwholesome, or otherwise unfit for human food, it shall be destroyed for food purposes by the establishment in the presence of an inspector.

The Secretary may remove inspectors from any establishment which fails so to destroy any carcass or part thereof required to be destroyed by this section.

The provisions of this section apply to all carcasses or parts of carcasses of cattle, sheep, swine, and goats, or the meat or meat food products thereof which may be brought into any establishment, and such examination and inspection shall be had before the said carcasses or parts thereof are allowed to enter into any department wherein they are to be treated and prepared for meat food products. The provisions of this section also apply to all such products, which, after having been issued from any establishment, are returned to the same or to any similar establishment where such inspection is maintained.

§ 494. Meat food products

For the purpose set forth in section 492 of this title the Secretary shall cause to be made an examination and inspection of all meat food products prepared for interstate or foreign commerce in any establishment.

The inspectors shall mark, stamp, tag, or label as "Inspected and Passed" all such products found to be sound, healthful, and wholesome, and which contain no dyes, chemicals, preservatives, or ingredients which render such meat, or meat food products unsound, unhealthful, unwholesome, or unfit for human food.

The inspectors shall label, mark, stamp, or tag as "Inspected and Condemned" all such products found unsound, unhealthful, and unwholesome, or which contain dyes, chemicals, preservatives, or ingredients which render such meat or meat food products unsound, unhealthful, unwholesome, or unfit for human food, and all such condemned meat food products shall be destroyed for food purposes by the establishment in the presence of an inspector. The Secretary may remove inspectors from any establishment which fails to so destroy such condemned meat food products.

Subject to the Secretary's rules and regulations the provisions of this section in regard to preservatives shall not apply to meat food products for export to any foreign country and which are prepared or packed according to the specifications or directions of the foreign purchaser, when no substance is used in the preparation or packing thereof in conflict with the laws of the foreign country to which said article is to be exported. If said article is in fact sold or offered for sale for domestic use or consumption, this paragraph shall not exempt said article from the operation of all the other provisions of this chapter.

§ 495. Canning or packing meats and products; labels

When any meat or meat food product prepared for interstate or foreign commerce which has been inspected under this chapter and marked "Inspected and Passed" is placed or packed in any can, pot, tin, canvas, or other receptacle or covering in any establishment where inspection is maintained under this chapter, the person preparing said product shall cause a label to be attached to said receptacle or covering, under the supervision of an inspector. Such label shall state that the contents thereof have been "Inspected and Passed" under the provisions of this chapter. No inspection and examination of meat or meat food products deposited or inclosed in cans, tins, pots, canvas, or other receptacle or covering in any such establishment shall be deemed to be complete until such meat or meat food products have been sealed or inclosed in said receptacle or covering under the supervision of an inspector.

No such meat or meat food products shall be sold or offered for sale by any person in interstate or foreign commerce under any false or deceptive name. Established trade name or names which are usual to such products and which are not false and deceptive and which are approved by the Secretary are permitted.

§ 496. Inspection of establishments

The Secretary shall cause inspections to be made, by experts in sanitation or by other competent inspectors, of all establishments defined in section 491 of this title in which cattle, sheep, swine, and goats are slaughtered and the meat and meat food products thereof are prepared for interstate or foreign commerce. The inspections shall be such as are necessary to inform the Secretary concerning the sanitary conditions of the establishments, and to enable him to prescribe the rules and regulations of sanitation under which such establishments shall be maintained. Where the sanitary conditions of any such establishment are such that the meat or meat food products are rendered unclean, unsound, unhealthful, unwholesome, or otherwise unfit for human food, the Secretary shall refuse to allow said meat or meat food products to be labeled, marked, stamped, or tagged as "Inspected and Passed."

§ 497. Time of inspections

(a) The examinations and inspections required by sections 492, 493, 494, and 495 of this title shall be made during the nighttime as well as during the daytime when the slaughtering of the animals or preparation of the meat or meat food products is conducted during the nighttime.

(b) For the purposes of any examination and inspection under this chapter, the inspectors shall have access at all times, by day or night, whether the establishment is being operated or not, to every part of the establishment.

§ 498. Meat for export; inspection; clearance

(a) The Secretary shall cause to be made a careful inspection of the carcasses and parts thereof of all cattle, sheep, swine, and goats, when the fresh, salted, canned, corned, packed, cured, or otherwise prepared meat or meat food products of such animals is intended and offered for export to any foreign country, at such times and places and in such manner as he deems proper.

(b) No clearance shall be given to any vessel having on board any fresh, salted, canned, corned, or packed beef, mutton, pork, or goat meat, for export to and sale in a foreign country from any port in the

United States, until the owner or shipper thereof shall obtain a certificate from an inspector that the cattle, sheep, swine, and goats from which such meat or meat food product was obtained, were sound and healthy at the time of inspection, and that their meat or meat food product is sound and wholesome, unless the Secretary has waived the requirement of such certificate for the country to which such meat or meat food product is to be exported.

§ 499. Inspectors' certificates

The inspectors may give official certificates of the sound and wholesome condition of cattle, sheep, swine, and goats, their carcasses and products as described in this chapter.

One copy of each such certificate shall be filed in the Department of Agriculture, another copy shall be delivered to the owner or shipper, and when the carcasses of cattle, sheep, swine, and goats, and the meat and meat food products thereof are sent abroad, a third copy shall be delivered to the chief officer of the vessel on which the shipment is made.

§ 500. Inspection, stamps or marks

The inspectors shall refuse to stamp, mark, tag, or label as "Inspected and Passed" any carcass or any part thereof, or meat food product therefrom, prepared in any establishment subject to this chapter until the same has actually been inspected and found to be sound, healthful, wholesome, and fit for human food, and to contain no dyes, chemicals, preservatives, or ingredients which render such meat food product unsound, unhealthful, unwholesome, or unfit for human food, and to have been prepared under proper sanitary conditions.

§ 501. Farmers and retail butchers and dealers, exemptions

(a) The provisions of this chapter requiring inspection to be made by the Secretary do not apply to animals slaughtered by any farmer on the farm and sold and transported in interstate or foreign commerce, nor to retail butchers and retail dealers in meat and meat food products, supplying their customers.

No meat and meat food products derived from animals slaughtered by any farmer on the farm which are salted, cured, canned, or prepared into sausage, lard, or other meat food products at any place other than by the farmer on the farm upon which the animals were slaughtered shall be transported in interstate or foreign commerce under the farmers' exemption provided in this section. All fresh meat and all farm-cured or prepared meat and meat food products

derived from animals slaughtered by any farmer on the farm which are to be used in interstate or foreign commerce shall be clearly marked with the name and address of the farmer on whose farm the animals were slaughtered.

(b) The Secretary may maintain the inspection provided for in this chapter at any establishment notwithstanding the exemptions contained in this section, and notwithstanding that the persons operating the same may be retail butchers and retail dealers or farmers. Where the Secretary establishes such inspection, the provisions of this chapter shall apply notwithstanding such exemptions.

§ 502. Inspectors; appointment, powers, and duties

The Secretary shall from time to time appoint inspectors to make the examinations and inspections provided for under this chapter and to perform such other duties as are required by this chapter and the Secretary's rules and regulations.

§ 503. Regulations

The Secretary shall make such rules and regulations as are necessary for the efficient execution of the provisions of this chapter. All inspections and examinations under this chapter shall be made in the manner provided in the Secretary's rules and regulations which are not inconsistent with this chapter.

§ 504. Cost of inspections

The United States shall bear the cost of inspections rendered under the requirements of this chapter except the cost of overtime pursuant to section 394 of title 7.

§ 505. Transportation of uninspected and unmarked articles

No person shall transport or offer for transportation, and no carrier of interstate or foreign commerce shall transport or receive for transportation from one State or Territory or the District of Columbia or to any other State or Territory or the District of Columbia, or to any place under the jurisdiction of the United States, or to any foreign country, any carcasses or parts thereof, meat, or meat food products thereof which have not been inspected, examined, and marked as "Inspected and Passed", in accordance with the terms of this chapter and with the Secretary's rules and regulations.

§ 506. Transportation or sale in violation of chapter

No person engaged in the interstate commerce of meat or meat food products shall transport or offer for transportation, sell or offer to sell, any such meat or meat food products in any State or Territory or in the District of Columbia or any place under the jurisdiction of

the United States, other than in the State or Territory or in the District of Columbia or any place under the jurisdiction of the United States in which the slaughtering, packing, canning, rendering, or other similar establishment owned, leased, or operated by such person is located unless and until such person shall have complied with all of the provisions of this chapter.

§ 507. Forgery or misuse of marks or certificates

No person shall forge, counterfeit, simulate, or falsely represent, or shall without proper authority use, fail to use, or detach, or shall knowingly or wrongfully alter, deface, or destroy, or fail to deface or destroy, any of the marks, stamps, tags, labels, or other identification devices provided for in this chapter, or in and as directed by the rules and regulations prescribed under this chapter by the Secretary of Agriculture, on any carcasses, parts of carcasses, or the food product, or containers thereof, subject to the provisions of this chapter or any certificate in relation thereto, authorized or required by this chapter or by the said rules and regulations of the Secretary of Agriculture.

§ 508. Penalties generally

Except as provided in sections 509 and 510 of this title, whoever violates any of the provisions of this chapter shall be fined not more than \$10,000 or imprisoned not more than one year, or both.

§ 509. Penalty for sale or transportation of unfit products by exempted persons

Whoever, being a farmer, retail butcher, or retail dealer acting under the exemptions provided in section 502 of this title, sells or offers for sale or transportation for interstate or foreign commerce any meat or meat food products which are diseased, unsound, unhealthful, unwholesome, or otherwise unfit for human food, knowing that such meat food products are intended for human consumption, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

§ 510. Bribery; acceptance of gifts

(a) Whoever gives, pays, or offers, directly or indirectly, to any inspector, deputy inspector, chief inspector, or any other officer or employee of the United States authorized to perform any of the duties prescribed by this chapter or by the Secretary's rules and regulations, any money or other thing of value, with intent to influence such inspector, deputy inspector, chief inspector, or other officer or employee of the United States in the discharge of any duty provided for in this chapter, shall be fined not more than \$10,000 or imprisoned not more than three years, or both.

(b) Whoever, being an inspector, deputy inspector, chief inspector, or other officer or employee of the United States authorized to perform any of the duties prescribed by this chapter, accepts any money, gift, or other thing of value from any person, given with intent to influence his official action, or who receives or accepts from any person engaged in interstate or foreign commerce any gift, money, or other thing of value, given with any purpose or intent whatsoever, shall be summarily discharged from office and shall be fined not more than \$10,000 or imprisoned not more than three years, or both.

§ 511. Horse meat

(a) No person shall transport or offer for transportation, and no carrier of interstate or foreign commerce shall transport or receive for transportation from one State or Territory or the District of Columbia to any other State or Territory or the District of Columbia or to any place under the jurisdiction of the United States or to any foreign country, any equine meat or food products thereof unless plainly and conspicuously labeled, marked, branded or tagged "Horse meat" or "Horse-meat Product", as the case may be, under rules and regulations prescribed by the Secretary.

(b) All the penalties, terms and provisions in this chapter, except the exemption in section 501 of this title applying to animals slaughtered by any farmer on a farm and to retail butchers and retail dealers in meat food products supplying their customers, shall be applicable to (1) horses, their carcasses, parts of carcasses, and meat food products thereof, (2) the establishments and other places where such animals are slaughtered or the meat or meat food products thereof are prepared or packed for interstate or foreign commerce, and (3) all persons who slaughter such animals or prepare or handle such meat or meat food products for interstate or foreign commerce.

§ 512. Dairy products for export

This chapter shall be deemed to include dairy products intended for exportation to any foreign country. The Secretary may apply, under rules and regulations prescribed by him, the provisions of this chapter for inspection and certification appropriate for ascertaining the purity and quality of such products, and may cause them to be so marked, stamped, or labeled as to secure their identity and make known in the markets of foreign countries to which they may be sent from the United States their purity, quality, and grade. All the provisions of this chapter relating to live cattle and products thereof for export shall apply to dairy products so inspected and certified.

§ 513. Reindeer

The provisions of this chapter may be extended to the inspection of reindeer.

CHAPTER 55—ANIMAL AND POULTRY DISEASE PREVENTION; TRANSPORTATION, IMPORT, AND EXPORT

Sec.

- 551. Measures and regulations to prevent introduction or spread of disease.
- 552. Control of diseases; cooperation with States.
- 553. Research laboratories for foot-and-mouth and other diseases.
- 554. Appointment of agents to make recommendations.
- 555. Cooperation with Mexico; foot-and-mouth disease and rinderpest; reports to Congress.
- 556. Cattle grubs, research and eradication.
- 557. International boundary fences.
- 558. Regulation of transportation and exportation generally.
- 559. Quarantine of infected areas.
- 560. Regulations for transportation from quarantined areas.
- 561. Transportation from quarantined areas prohibited; exceptions.
- 562. Transportation of diseased livestock or poultry prohibited.
- 563. Cattle reacting to tuberculin test, transportation of.
- 564. Domestic animals reacting to test for paratuberculosis or brucellosis.
- 565. Regulation and promotion of exports.
- 566. Suspension of importation.
- 567. Importation of diseased or exposed animals and poultry prohibited.
- 568. Importation prohibited except at quarantine stations.
- 569. Quarantine of imported animals and poultry.
- 570. Inspection and disposition of imported animals and poultry.
- 571. Disease control in District of Columbia.
- 572. Inspection by Department as precluding other inspections and fees.
- 573. Penalties.
- 574. Prosecution of violations; venue.

§ 551. Measures and regulations to prevent introduction or spread of disease

The Secretary of Agriculture may—

(1) make regulations and take measures to prevent the introduction or dissemination of the contagion of any communicable disease of animals or poultry from a foreign country into the United States or from one State or Territory of the United States or the District of Columbia to another, and

(2) seize, quarantine, and dispose of any hay, straw, forage, or similar material, or any meats, hides, or other animal or poultry products coming from an infected foreign country to the United States, or from one State or Territory or the District of Columbia in transit to another State or Territory or the District of Columbia whenever in his judgment such action is advisable to guard against the introduction or spread of such contagion.

§ 552. Control of diseases; cooperation with States

(a) The Secretary of Agriculture shall prepare rules and regulations for the speedy and effectual control and eradication of dangerous communicable diseases of domestic animals and poultry.

He shall certify such rules and regulations to the executive authority of each State and Territory, and invite said authorities to cooperate in the execution and enforcement of the provisions of this chapter. Whenever the plans and methods of the Secretary are accepted by any State or Territory in which any such disease is declared to exist, or whenever such State or Territory adopts plans and methods for the control and eradication of the disease and such plans and methods are accepted by the Secretary of Agriculture, and whenever the governor of a State or other properly constituted authorities signify their readiness to cooperate for the extinction of the disease in conformity with the provisions of this chapter, the Secretary may expend so much of the money appropriated for carrying out the provisions of this chapter as may be necessary in such investigations, and in such disinfection and quarantine measures as may be necessary to prevent the spread of the disease from one State or Territory into another.

(b) The Secretary of Agriculture, either independently or in cooperation with States or political subdivisions thereof, farmers' associations, and similar organizations, and individuals, may control and eradicate tuberculosis and paratuberculosis of animals, avian tuberculosis, brucellosis of domestic animals, southern cattle ticks, hog cholera and related swine diseases, scabies in sheep and cattle, dourine in horses, scrapie and blue tongue in sheep, incipient or potentially serious minor outbreaks of diseases in animals and poultry, and communicable diseases of animals and poultry which in the opinion of the Secretary constitute an emergency and threaten the livestock industry of the country, including the purchase and destruction of diseased or exposed animals and poultry, or the destruction of such animals and poultry and the payment of indemnities therefor, in accordance with such regulations as the Secretary prescribes. As used in this subsection, the term "State" includes the District of Columbia and the Territories and possessions of the United States.

§ 553. Research laboratories for foot-and-mouth and other diseases

The Secretary of Agriculture may establish research laboratories, including the acquisition of necessary land, buildings, or facilities, and also the making of research contracts under the authority contained in section 427i (a) of Title 7, for research and study, in the United States or elsewhere, of foot-and-mouth disease and other animal and poultry diseases which in his opinion constitute a threat to the livestock or poultry industry of the United States.

No live virus of foot-and-mouth disease may be introduced for any purpose into any part of the mainland of the United States except coastal islands separated therefrom by waters navigable for deep-water navigation and which are not connected with the mainland by any tunnel, and except further, that in the event of outbreak of foot-and-mouth disease in this country, the Secretary of Agriculture may, at his discretion, permit said virus to be brought into the United States under adequate safeguards.

To carry out the provisions of this section, the Secretary may employ technical experts or scientists without regard to the Classification Act of 1949, but the number so employed shall not exceed five and the maximum compensation for each shall not exceed \$15,000 per annum. There is authorized to be appropriated such sums as Congress may deem necessary and, in addition, the Secretary may utilize, in carrying out this section, funds otherwise available for the control or eradication of such diseases.

§ 554. Appointment of agents to make recommendations

The Secretary of Agriculture may appoint two competent agents, who are practical stock raisers or experienced business men familiar with questions pertaining to commercial transactions in livestock or poultry, who shall, under the instructions of the Secretary, examine and report upon the best methods of treating, transporting, and caring for animals and poultry, and the means to be adopted for the control and eradication of contagious pleuropneumonia, and provide against the spread of other dangerous communicable diseases. The compensation of such agents shall be at the rate of \$10 per diem, with all necessary expenses, while engaged in the actual performance of their duties under this section, when absent from their usual place of business or residence.

§ 555. Cooperation with Mexico; foot-and-mouth disease and rinderpest; reports to Congress

(a) The Secretary of Agriculture may cooperate with the Government of Mexico in carrying out operations or measures to eradicate, suppress, or control, or to prevent or retard, foot-and-mouth disease or rinderpest in Mexico where he deems such action necessary to protect the livestock and related industries of the United States. In performing such operations or measures, the Government of Mexico shall be responsible for the authority necessary to carry them out on all lands and properties in Mexico and for such other facilities and means as are necessary in the discretion of the Secretary

of Agriculture. The measure and character of cooperation carried out under this section on the part of the United States and on the part of the Government of Mexico, including the expenditure or use of funds appropriated pursuant to this section, shall be such as may be prescribed by the Secretary of Agriculture. Arrangements for such cooperation shall be made through and in consultation with the Secretary of State. The authority contained in this section is in addition to and not in substitution for the authority of existing law.

(b) For purposes of this section, funds appropriated pursuant thereto may also be used for (1) the purchase or hire of passenger motor vehicles and aircraft, (2) printing and binding without regard to section 111 of Title 44, (3) the employment of civilian nationals of Mexico, and (4) the construction and operation of research laboratories, quarantine stations and other buildings and facilities.

(c) The Secretary of Agriculture shall make a report to the Congress on the last day of each month with respect to the activities carried on under this section.

§ 556. Cattle grubs, research and eradication

In order to protect, promote, and conserve livestock and livestock products and to minimize losses, the Secretary of Agriculture, either independently or in cooperation with States or subdivisions thereof, farmers' associations, and other organizations and individuals, may increase and intensify research and investigations into problems and methods relating to the eradication of cattle grubs and undertake measures to eradicate these parasites. As used in this section, the term "State" includes the District of Columbia and the Territories and possessions of the United States. Funds appropriated to carry out this section shall be expended in accordance with procedures prescribed by the Secretary.

§ 557. International boundary fences

The Secretary of Agriculture may permit the erection of fences along international boundary lines, but entirely within the territory of the United States, for the purpose of keeping out diseased animals and poultry.

§ 558. Regulation of transportation and exportation generally

In order to enable the Secretary of Agriculture effectually to control and eradicate dangerous communicable diseases in cattle and other livestock and poultry, and to prevent the spread of such diseases he shall establish such rules and regulations concerning the exportation and transportation of livestock and poultry from any place within

the United States where he may have reason to believe such diseases may exist into and through any State or Territory, and into and through the District of Columbia and to foreign countries as he deems necessary. All such rules and regulations shall have the force of law.

§ 559. Quarantine of infected areas

The Secretary of Agriculture shall quarantine any State or Territory or the District of Columbia, or any portion of any State or Territory or the District of Columbia, when he determines the fact that cattle or other livestock or poultry in such State or Territory or District of Columbia are affected with any communicable disease. He shall give written or printed notice of the establishment of quarantine to the proper officers of railroad, steamboat, or other transportation companies doing business in or through any quarantined State or Territory or the District of Columbia, and publish such notice in such newspapers in the quarantined State or Territory or the District of Columbia as he may select.

§ 560. Regulations for transportation from quarantined areas

The Secretary of Agriculture shall, when the public safety will permit, make and promulgate rules and regulations which shall permit and govern the inspection, disinfection, certification, treatment, handling, and method and manner of delivery and shipment of cattle or other livestock or poultry from a quarantined State or Territory or the District of Columbia, and from the quarantined portion of any State or Territory or the District of Columbia, into any other State or Territory or the District of Columbia. The Secretary shall give notice of such rules and regulations in the manner provided in section 559 of this title for notice of establishment of quarantine.

§ 561. Transportation from quarantined areas prohibited; exceptions

(a) No railroad company and no owners or masters of any vessel or boat shall receive for transportation or transport, no person shall deliver for transportation to any railroad company or to the master or owner of any vessel or boat, and no person shall drive or cause to be driven on foot or transport or cause to be transported by private conveyance, any cattle or other livestock or poultry from any quarantined State or Territory or the District of Columbia, or from any quarantined portion thereof, into any other State or Territory or the District of Columbia, except in compliance with rules and regulations promulgated by the Secretary of Agriculture under section 560 of this title.

(b) The provisions of subsection (a) of this section and sections 559, 560, and 573 (b) of this title shall apply to any railroad company or other common carrier whose road or line forms any part of a route over which cattle or other livestock or poultry are transported in the course of shipment from any quarantined State or Territory or the District of Columbia, or from the quarantined portion of any State or Territory or the District of Columbia, into any other State or Territory or the District of Columbia.

§ 562. Transportation of diseased livestock or poultry prohibited

No railroad company within the United States, and no owners or masters of any vessel or boat, shall receive for transportation or transport from one State or Territory to another, or from any State into the District of Columbia, or from the District into any State, any livestock or poultry affected with any communicable disease; nor shall any person deliver for such transportation to any railroad company, or master or owner of any boat or vessel, any livestock or poultry, knowing them to be affected with any communicable disease. No person shall drive on foot, or transport in private conveyance, from one State or Territory to another, or from any State into the District of Columbia, or from the District into any State, any livestock or poultry, knowing them to be affected with any communicable disease.

§ 563. Cattle reacting to tuberculin test, transportation of

Cattle which have reacted to the tuberculin test may be shipped, transported, or moved from one State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia, for immediate slaughter, in accordance with such rules and regulations as shall be prescribed by the Secretary of Agriculture. The Secretary may, in his discretion, and under such rules and regulations as he may prescribe, permit cattle which have been shipped for breeding or feeding purposes from one State, Territory, or the District of Columbia to another State, Territory, or the District of Columbia, and which have reacted to the tuberculin test subsequent to such shipment, to be reshipped in interstate commerce to the original owner.

§ 564. Domestic animals reacting to test for paratuberculosis or brucellosis

Domestic animals which have reacted to a test recognized by the Secretary of Agriculture for paratuberculosis or which, never having been vaccinated for brucellosis, have reacted to a test recognized by the Secretary of Agriculture for brucellosis, may be shipped, transported,

or otherwise moved from one State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia for immediate slaughter in accordance with such rules and regulations as the Secretary of Agriculture may prescribe to prevent the dissemination of said diseases from one State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia. The Secretary of Agriculture may, in his discretion and under such rules and regulations as he may prescribe, permit domestic animals which have been moved from one State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia, for breeding purposes, and which, subsequent to such movement, have reacted to a test for brucellosis or paratuberculosis recognized by the Secretary of Agriculture, to be reshipped in interstate commerce to the original owner at the point of origin.

§ 565. Regulation and promotion of exports

(a) The Secretary of Agriculture may take such steps and adopt such measures, not inconsistent with the provisions of this chapter, as he deems necessary to prevent the exportation from any port of the United States to any port in a foreign country of livestock or poultry affected with any communicable disease.

(b) In order to promote the exportation of livestock and poultry from the United States the Secretary of Agriculture shall make special investigation as to the existence of any communicable disease, along the borders between the United States and foreign countries, and along the lines of transportation from all parts of the United States to ports from which livestock or poultry are exported, and shall, from time to time, establish such regulations concerning the exportation and transportation of livestock or poultry as the results of such investigations may require.

(c) The Secretary of Agriculture, by such orders and regulations as he prescribes, may cause inspection to be made of all cattle, sheep, other ruminants, swine, and poultry intended for exportation, and provide for the disinfection of all vessels engaged in the transportation thereof, and of all barges or other vessels used in the conveyance of such animals and poultry to the ocean steamer or other vessels, and of all attendants and their clothing, and of all headropes and other appliances used in such exportation. If, upon such inspection, any such animals or poultry are adjudged, under the Secretary's regulations, to be infected or to have been exposed to infection so as to be dangerous to other animals or poultry, they shall not be allowed to be placed upon any vessel for exportation. The expense of all the

inspection and disinfection provided for in this subsection shall be borne by the owners of the vessels on which such animals or poultry are exported.

(d) The Secretary shall cause to be made a careful inspection of all cattle, sheep, swine, and goats intended and offered for export to foreign countries at such times and places, and in such manner, as he deems proper to ascertain whether such animals are free from disease.

(e) No clearance shall be given to any vessel having on board cattle, sheep, swine, or goats for export to a foreign country until the owner or shipper of such animals has a certificate from an inspector stating that the animals are sound and healthy, or unless the Secretary has waived the requirement of such certificate for export to the particular country to which they are to be exported.

§ 566. Suspension of importation

Whenever, in the opinion of the President, it is necessary for the protection of animals, including poultry, in the United States against communicable diseases, he may, by proclamation, suspend the importation of all or any class of animals or poultry for a limited time, and may change, modify, revoke, or renew such proclamation, as the public good may require. During the time of such suspension the importation of any such animals or poultry shall be unlawful.

§ 567. Importation of diseased or exposed animals and poultry prohibited

No person shall import cattle, sheep, other ruminants, swine, and poultry, which are diseased or infected with any disease, or which have been exposed to such infection within sixty days next before their exportation. However, the Secretary of Agriculture may by regulations permit the admission from Mexico into the State of Texas of cattle which have been infested with or exposed to ticks upon being freed therefrom.

§ 568. Importation prohibited except at quarantine stations

No person shall import cattle, sheep, other ruminants, swine, and poultry except at ports designated as quarantine stations by the Secretary of Agriculture with the approval of the Secretary of the Treasury.

If any animals and poultry subject to quarantine are brought into any port of the United States where no quarantine station is established, the collector of such port shall require such animals and poultry to be conveyed to the nearest quarantine station by the vessel on which they are imported or are found, at the expense of the owner.

§ 569. Quarantine of imported animals and poultry

The Secretary of Agriculture may, at the expense of the owner, place and retain in quarantine all cattle, sheep, other ruminants, swine, and poultry imported into the United States, at ports designated by him for such purpose, and under such conditions as he by regulation prescribes, respectively, for the several classes of animals and poultry above described.

For the purpose of such quarantine, the Secretary may purchase, construct, or rent such lands, buildings, animals, tools, fixtures, and appurtenances as may be necessary, and he may appoint such veterinary surgeons, inspectors, officers, and employees as he deems necessary to maintain such quarantine and provide for the execution of the other provisions of sections 565 (c), 566–570, and 573 (e) of this title.

§ 570. Inspection and disposition of imported animals and poultry

(a) The Secretary of Agriculture shall cause careful inspection to be made of all imported cattle, sheep, other ruminants, swine, and poultry, to ascertain whether such animals and poultry are infected with communicable diseases or have been exposed to infection so as to be dangerous to other animals and poultry. Such animals and poultry shall then be either placed in quarantine or dealt with according to the Secretary's regulations.

All food, litter, manure, clothing, utensils, and other appliances that have been so related to such animals and poultry on board ship as to be judged liable to convey infection shall be dealt with according to the Secretary's regulations.

(b) The Secretary of Agriculture may cause to be slaughtered such of the animals and poultry named in subsection (a) of this section as may be, under his regulations, adjudged to be infected with any communicable disease, or to have been exposed to infection so as to be dangerous to other animals and poultry. The value of animals and poultry slaughtered as being exposed to infection but not infected may be ascertained by agreement of the Secretary and the owners thereof if practicable; otherwise, by the appraisal by two persons familiar with the character and value of such property, appointed by the Secretary, whose decision, if they agree, shall be final; otherwise, the Secretary of Agriculture shall decide between them, and his decision shall be final. The amount of the value thus ascertained shall be paid to the owner thereof out of money in the Treasury appropriated for the use of the Bureau of Animal Industry

or for the use of such other bureau or agency, or of any officer, of the Department of Agriculture, to which or to whom the Secretary may delegate the functions heretofore or hereafter exercised by him through the Bureau of Animal Industry; but no payment shall be made for any animals or poultry imported in violation of the provisions of sections 566-570 or 573 (e) of this title.

§ 571. Disease control in District of Columbia

Whenever any communicable disease affecting domestic animals or poultry, is brought into or breaks out in the District of Columbia, the Commissioners of the District of Columbia shall take measures to suppress the disease promptly and to prevent it from spreading. For this purpose the Commissioners may (1) require that any premises or farms where such disease exists, or has existed, be put in quarantine; (2) order that all or any animals and poultry coming into the District be detained at any place for the purpose of inspection and examination; (3) prescribe regulations for and require the destruction of animals or poultry affected with communicable disease, and for the proper disposition of their hides and carcasses; and (4) prescribe regulations for disinfection, and such other regulations as they may deem necessary to prevent infection or contagion being communicated. The Commissioners shall report to the Secretary of Agriculture any actions taken under this section.

§ 572. Inspection by Department as precluding other inspections and fees

Whenever the Secretary of Agriculture, or any inspector or assistant inspector of the Department of Agriculture designated by the Secretary for such purpose, issues a certificate showing that such officer has inspected any cattle or other livestock or poultry which are about to be shipped, driven, or transported from one locality to another as stated in section 558 of this title, and has found them free from any communicable disease, such animals or poultry, so inspected and certified, may be shipped, driven, or transported from such place into and through any State or Territory or the District of Columbia, or they may be exported from the United States, without further inspection or the exaction of fees of any kind, except such as may at any time be ordered or exacted by the Secretary of Agriculture. For the purposes of such inspection, all such animals and poultry shall at all times be under the control and supervision of the Secretary of Agriculture.

§ 573. Penalties

(a) Whoever knowingly violates section 551, 558 or 572 of this title or the orders or regulations made in pursuance thereof shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(b) Whoever violates section 561 of this title shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(c) The Secretary of Agriculture shall give notice of the existence of contagion in any infected locality by notice, in writing, to the proper officials or agents of any railroad, steamboat, or other transportation company doing business in or through such locality, and by publication in such newspapers as he may select. Whoever, being a person operating any such railroad, or master or owner of any boat or vessel, or owner or custodian of or person having control over such cattle or other livestock or poultry within such infected district, knowingly violates section 562 of this title shall be fined not more than \$5,000 or imprisoned not more than one year, or both.

(d) Whoever violates section 565 (d) (e) of this title shall be fined not more than \$10,000 or imprisoned not more than one year, or both.

(e) Whoever knowingly violates section 567 of this title shall be fined not more than \$5,000 or imprisoned not more than three years. Any vessel or vehicle used in such unlawful importation within the knowledge of the master or owner of such vessel or vehicle that such importation is diseased or has been exposed to infection as described in section 567 of this title, shall be forfeited to the United States.

§ 574. Prosecution of violations; venue

The several United States attorneys shall prosecute all violations of this chapter which are brought to their notice by any person making complaint under oath, in the United States district court or Territorial court held within the district in which the violation has been committed.

CHAPTER 57—SERUMS AND ANALOGOUS PRODUCTS

Sec.

- 611. Preparation and sale of serum, etc.
- 612. Licensing and inspection of establishments.
- 613. Regulations for preparation and sale.
- 614. Importation regulated and prohibited.
- 615. Permits for and inspection of imports.
- 616. Revocation or suspension of licenses or permits.
- 617. Penalties.

§ 611. Preparation and sale of serum, etc.

No person shall prepare, sell, barter, or exchange in the District of Columbia, in the Territories, or in any place under the jurisdiction

of the United States, or ship or deliver for shipment from one State or Territory or the District of Columbia to any other State or Territory or the District of Columbia—

(1) any worthless, contaminated, dangerous, or harmful virus, serum, toxin, or analogous product intended for use in the treatment of domestic animals; or

(2) any virus, serum, toxin, or analogous product manufactured within the United States and intended for use in the treatment of domestic animals, unless and until such product has been prepared, under and in compliance with regulations prescribed by the Secretary of Agriculture, at an establishment holding an unsuspended and unrevoked license issued by the Secretary under this chapter.

§ 612. Licensing and inspection of establishments

(a) The Secretary of Agriculture may issue, suspend, and revoke licenses for the maintenance of establishments for the preparation of viruses, serums, toxins, and analogous products, for use in the treatment of domestic animals, intended for sale, barter, exchange, or shipment as specified in section 611 of this title.

(b) All licenses issued to establishments under this chapter shall be issued on condition that the licensee shall permit the inspection of such establishments and of such products and their preparation. Any officer, agent, or employee of the Department of Agriculture duly authorized by the Secretary for the purpose may enter and inspect any establishment licensed under this chapter at any hour of the day or night.

§ 613. Regulations for preparation and sale

The Secretary of Agriculture may make and promulgate from time to time such rules and regulations as may be necessary to prevent the preparation, sale, barter, exchange, or shipment as specified in section 611 of this title of any worthless, contaminated, dangerous, or harmful virus, serum, toxin, or analogous product for use in the treatment of domestic animals.

§ 614. Importation regulated and prohibited

No person shall import into the United States, without a permit from the Secretary of Agriculture, any virus, serum, toxin, or analogous product for use in the treatment of domestic animals, and no person shall import into the United States any worthless, contaminated, dangerous, or harmful virus, serum, toxin, or analogous product for use in the treatment of domestic animals.

§ 615. Permits for and inspection of imports

(a) The Secretary of Agriculture may issue permits for the importation into the United States of viruses, serums, toxins, and analogous products, for use in the treatment of domestic animals, which are not worthless, contaminated, dangerous, or harmful.

(b) The Secretary may cause to be examined and inspected all viruses, serums, toxins, and analogous products, for use in the treatment of domestic animals, which are being imported or offered for importation into the United States, to determine whether such products are worthless, contaminated, dangerous, or harmful. If it appears that any such product is worthless, contaminated, dangerous, or harmful, such product shall be denied entry and shall be destroyed or returned at the expense of the owner or importer.

§ 616. Revocation or suspension of licenses or permits

The Secretary of Agriculture may suspend or revoke any license or permit issued under this chapter, after opportunity for hearing has been granted the licensee or importer, when the Secretary is satisfied that such license or permit is being used to facilitate or effect the preparation, sale, barter, exchange, or shipment as specified in section 611 of this title, or the importation into the United States, of any worthless, contaminated, dangerous, or harmful virus, serum, toxin, or analogous product for use in the treatment of domestic animals.

§ 617. Penalties

Whoever violates any of the provisions of this chapter shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

PART III.—NARCOTICS

CHAPTER	Sec.
91. Administration	711
93. NARCOTICS IMPORT AND EXPORT.....	761
95. DOMESTIC OPIUM POPPY PRODUCTION CONTROL.....	811

CHAPTER 91—ADMINISTRATION

Sec.
711. Administration of Part III; delegation of functions.
712. Departmental cooperation in discharge of international obligations.
713. Cooperation with States in suppression of abuse.
714. Payments for information.

§ 711. Administration of Part III; delegation of functions

Except as otherwise provided by law, the administration and enforcement of this part are vested in the Secretary of the Treasury. Such Secretary's functions under this part shall be performed by him

or, subject to his direction and control, by such officers, agencies and bureaus of the Department of the Treasury as he designates.

§ 712. Departmental cooperation in discharge of international obligations

The Secretary of the Treasury shall cooperate with the Secretary of State in the discharge of the international obligations of the United States concerning the traffic in narcotic drugs.

§ 713. Cooperation with States in suppression of abuse

(a) The Secretary of the Treasury shall cooperate with the several States in the suppression of the abuse of narcotic drugs in their respective jurisdictions, and to that end he may :

(1) Cooperate in the drafting of such legislation as may be needed to effect the end named ; and

(2) Arrange for the exchange of information concerning the use and abuse of narcotic drugs in said States and for cooperation in the institution and prosecution of cases in the courts of the United States and before the licensing boards and courts of the several States.

(b) The Secretary of the Treasury may prescribe such regulations as may be necessary to carry out the purposes of this section.

§ 714. Payments for information concerning violations of laws

The Secretary of the Treasury may pay to any person, from funds now or hereafter appropriated for the enforcement of the narcotic laws of the United States, for information concerning a violation of any narcotic law of the United States, resulting in a seizure of contraband narcotics, such sum or sums of money as he may deem appropriate, without reference to any moieties or rewards to which such person may otherwise be entitled by law. All payments under authority of this section to any informer in any foreign country shall be made only through an accredited consul or vice consul of the United States stationed in such country, and every such payment shall be supported by a voucher with an accompanying certificate of such consul or vice consul that the payment of the amount stated on the voucher has been made to the informer named, and at the place and time specified on such voucher.

CHAPTER 93—NARCOTICS IMPORT AND EXPORT

Sec.

761. Definitions.

762. Rules and regulations.

763. Importation ; exceptions and restrictions ; forfeitures.

764. Import for purpose of transportation to another country ; transfer between vessels.

765. Penalty for unlawful import, receipt, transportation or sale ; subsequent offenses ; procedure ; evidence ; liability of masters and persons in charge.

766. Presumption and burden of proof as to importation of smoking opium.

Sec.

767. Exportation; exception; laws of foreign governments.

768. Penalty for unlawful export.

769. Penalty for having in possession or control on board United States vessel.

770. Penalty for possession, receipt, or concealment of smoking opium; evidence; liability of masters and persons in charge.

771. Share of fine to informer.

772. Short title.

§ 761. Definitions

As used in this chapter, unless the context requires a different meaning—

(a) “narcotic drug”, “isonipecaïne” and “opiate” shall have the same meaning ascribed to these terms as used in the Internal Revenue Code;

(b) “United States”, when used in a geographical sense, includes the several States and Territories, and the District of Columbia;

(c) “Secretary” means the Secretary of the Treasury;

(d) “person” means an individual, partnership, corporation, or association.

§ 762. Rules and regulations

The Secretary shall prescribe and publish all proper rules and regulations to carry into effect the authority vested in him by this chapter.

§ 763. Importation; exceptions and restrictions; forfeitures

(a) No narcotic drug may be imported or brought into the United States or any territory under its control or jurisdiction, except that, under such regulations as the Secretary shall prescribe—

(1) Such amounts of crude opium and coca leaves as the Secretary finds to be necessary to provide for medical and scientific uses may be so imported or brought in; but no crude opium may be imported or brought in for the purpose of manufacturing heroin, and the Secretary may limit further or prohibit entirely the importation or bringing in of crude opium, to the extent that he finds that the medical and scientific needs of the United States for opium or opium products are being, or can be, supplied by opium poppies produced in accordance with chapter 95 of this title; and

(2) Amounts of coca leaves in addition to the amount permitted under paragraph (1) of this subsection may be imported or brought in; but after the entry of such additional amounts into the United States or any territory under its control or jurisdiction, all cocaine, ecgonine, and all salts, derivatives, and preparations from which cocaine or ecgonine may be synthesized or made, contained therein,

shall be destroyed under the supervision of the Secretary or his authorized representative.

(b) All narcotic drugs imported under subsection (a) of this section shall be subject to the duties which are now or may hereafter be imposed upon such drugs when imported.

(c) Any narcotic drug imported or brought into the United States or any territory under its control or jurisdiction, contrary to law, shall—

(1) If smoking opium or opium prepared for smoking, be seized and summarily forfeited to the United States Government without the necessity of instituting forfeiture proceedings of any character; or

(2) If any other narcotic drug be seized and forfeited to the United States Government, without regard to its value, in the manner provided by sections 1607 and 1608 of Title 19, or the provisions of law hereafter enacted which are amendatory of, or in substitution for, such sections.

(d) Any narcotic drug which is forfeited in a proceeding for condemnation or not claimed under sections 1607 and 1608 of Title 19, or which is summarily forfeited as provided in subsection (c) of this section, shall be placed in the custody of the Secretary and in his discretion be destroyed or delivered to some agency of the United States Government for use for medical or scientific purposes.

§ 764. Import for purpose of transportation to another country; transfer between vessels

No smoking opium or opium prepared for smoking shall be admitted into the United States or into any territory under its control or jurisdiction for transportation to another country, or be transferred or transshipped from one vessel to another vessel within any waters of the United States for immediate exportation or for any other purpose; and except with the approval of the Secretary, no other narcotic drug may be so admitted, transferred, or transshipped.

§ 765. Penalty for unlawful import, receipt, transportation or sale; subsequent offenses; procedure; evidence; liability of masters and persons in charge

(a) Whoever fraudulently or knowingly imports or brings any narcotic drug into the United States or any territory under its control or jurisdiction, contrary to law, or receives, conceals, buys, sells, or in any manner facilitates the transportation, concealment, or sale of any such narcotic drug after being imported or brought in, knowing the same to have been imported contrary to law, or conspires to commit any of such acts in violation of the laws of the United States, shall be

fined not more than \$2,000 and imprisoned not less than two or more than five years. For a second offense, the offender shall be fined not more than \$2,000 and imprisoned not less than five or more than ten years. For a third or subsequent offense, the offender shall be fined not more than \$2,000 and imprisoned not less than ten or more than twenty years. Upon conviction for a second or subsequent offense, the imposition or execution of sentence shall not be suspended and probation shall not be granted. For the purpose of this subsection, an offender shall be considered a second or subsequent offender, as the case may be, if he previously has been convicted of any offense the penalty for which is provided in this subsection or in section 2557 (b) (1) of the Internal Revenue Code, or if he previously has been convicted of any offense the penalty for which was provided in section 9, chapter 1, of the Act of December 17, 1914 (38 Stat. 789), as amended; section 1, chapter 202 of the Act of May 26, 1922 (42 Stat. 596), as amended; section 12, chapter 553, of the Act of August 2, 1937 (50 Stat. 556), as amended; or section 2557 (b) (1) or 2596 of the Internal Revenue Code, as amended. After conviction, but prior to pronouncement of sentence, the court shall be advised by the United States attorney whether the conviction is the offender's first or a subsequent offense. If it is not a first offense, the United States attorney shall file an information setting forth the prior convictions. The offender shall have the opportunity in open court to affirm or deny that he is identical with the person previously convicted. If he denies the identity, sentence shall be postponed for such time as to permit a trial before a jury on the sole issue of the offender's identity with the person previously convicted. If the offender is found by the jury to be the person previously convicted, or if he acknowledges that he is such person, he shall be sentenced as prescribed in this subsection.

Whenever on trial for a violation of this subsection the defendant is shown to have or to have had possession of the narcotic drug, such possession shall be deemed sufficient evidence to authorize conviction unless the defendant explains the possession to the satisfaction of the jury.

(b) No master of any vessel or other water craft, or person in charge of a railroad car or other vehicle, shall be liable under subsection (a) of this section if he satisfies the jury that he had no knowledge of and used due diligence to prevent the presence of the narcotic drug in or on such vessel, water craft, railroad car, or other vehicle; but the narcotic drug shall be seized, forfeited, and disposed of as provided in subsections (c) and (d) of section 763 of this title.

§ 766. Presumption and burden of proof as to importation of smoking opium

All smoking opium or opium prepared for smoking found within the United States shall be presumed to have been imported contrary to law, and the burden of proof shall be on the claimant or the accused to rebut such presumption.

§ 767. Exportation; exceptions; laws of foreign governments

(a) No person subject to the jurisdiction of the United States Government shall export or cause to be exported from the United States, or from territory under its control or jurisdiction, any narcotic drug to any other country except to a country which has ratified and become a party to the convention and final protocol between the United States Government and other powers for the suppression of the abuses of opium and other drugs, commonly known as the International Opium Convention of 1912, and then only if—

(1) such country has instituted and maintains, in conformity with that convention, a system, which the Secretary deems adequate, of permits or licenses for the control of imports of such narcotic drugs;

(2) the narcotic drug is consigned to an authorized permittee; and

(3) there is furnished to the Secretary proof deemed adequate by him that the narcotic drug is to be applied exclusively to medical and scientific uses within the country to which exported, that it will not be reexported from such country, and that there is an actual shortage of and a demand for the narcotic drug for medical and scientific uses within such country.

(b) The exceptions contained in subsection (a) of this section shall not apply to smoking opium or opium prepared for smoking, the exportation of which is absolutely prohibited.

(c) The Secretary of State shall request all foreign governments to communicate through the diplomatic channels copies of the laws and regulations promulgated in their respective countries which prohibit or regulate the importation and shipment in transit of any narcotic drug and, when received, shall advise the Secretary thereof.

§ 768. Penalty for unlawful export

Any person who exports, or conspires to export, any narcotic drugs in violation of section 767 of this title shall be fined not more than \$5,000 or imprisoned not more than two years, or both.

§ 769. Penalty for having in possession or control on board United States vessel

(a) Any person who brings on board, or has in his possession or control on board, any vessel of the United States, while engaged on a foreign voyage, any narcotic drug not constituting a part of the cargo entered in the manifest or part of the ship stores, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

(b) As used in subsection (a) of this section, "narcotic drug" means any narcotic drug defined by section 761 of this title, or "marihuana" as defined in the Internal Revenue Code.

§ 770. Penalty for possession, receipt, or concealment of smoking opium; evidence; liability of masters and persons in charge

(a) Any person, subject to the jurisdiction of the United States, who, either as principal or as accessory, receives or has in his possession, or conceals on board of or transports on any foreign or domestic vessel or other water craft or railroad car or other vehicle destined to or bound from the United States or any Possession thereof, any smoking opium or opium prepared for smoking, or who, having knowledge of the presence in or on any such vessel, water craft, or vehicle of such article, does not report the same to the principal officer thereof, shall be punished as provided in section 765 of this title. Whenever on trial for violation of this section the defendant is shown to have or to have had possession of such opium, such possession shall be deemed sufficient evidence to authorize conviction, unless the defendant shall explain the possession to the satisfaction of the jury.

(b) No master of a vessel or other water craft or person in charge of a railroad car or other vehicle shall be liable under this section if he satisfies the jury that he had no knowledge and used due diligence to prevent the presence of such article in or on such vessel, water craft, car, or other vehicle; but any such article shall be forfeited and destroyed.

§ 771. Share of fine to informer

One-half of any fine recovered from any person or persons convicted of an offense under this chapter may be paid to the person or persons giving information leading to such recovery, and one-half of any bail forfeited and collected in any proceedings brought under this chapter may be paid to the person or persons giving the information which

led to the institution of such proceedings, if so directed by the court exercising jurisdiction in the case. No payment for giving information shall be made to any officer or employee of the United States.

§ 772. Short title

This chapter may be cited as the “Narcotic Drugs Import and Export Act”.

CHAPTER 95—DOMESTIC OPIUM POPPY PRODUCTION CONTROL

Sec.

811. Declaration of policy; assistance from Federal agencies.

812. Definitions.

813. Rules and regulations.

814. Licenses; qualifications; limitations; revocation and renewal.

815. Distribution by Federal Government; personnel of Treasury Department excepted from prohibitions.

816. Production, purchase, manufacture, sale or transportation by unlicensed persons.

817. Seizure and forfeiture of opium poppies illegally possessed; disposition.

818. Penalties.

819. Pleading, presumptions, and burden of proof.

820. Application to, and of, other laws.

821. Territorial application.

822. Short title.

§ 811. Declaration of policy; assistance from Federal agencies

(a) It is the purpose of this chapter to—

(1) discharge more effectively the obligations of the United States under the International Opium Convention of 1912, and the Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs of 1931, as amended by the Protocol signed at Lake Success, New York, on December 11, 1946;

(2) promote the public health and the general welfare;

(3) regulate interstate and foreign commerce in opium poppies; and

(4) safeguard the revenue derived from taxation of opium and opium products.

(b) Other departments, bureaus, and independent establishments of the Government, when requested by the Secretary of the Treasury, shall furnish such assistance, including technical advice, as will aid in carrying out the purposes of this chapter.

§ 812. Definitions

As used in this chapter—

1. “produce” or “production” includes the planting, cultivation, growth, harvesting, and any other activity which facilitates the growth of the opium poppy;

2. “opium poppy” includes the plant *Papaver somniferum*, any other plant which is the source of opium or opium products, and any part of any such plant;

3. "opium" includes the inspissated juice of the opium poppy, in crude or refined form;
4. "opium products" includes opium and all substances obtainable from opium or the opium poppy, except the seed thereof;
5. "Secretary" means the Secretary of the Treasury;
6. "person" means an individual, company, partnership, corporation, or association.

§ 813. Rules and regulations

The Secretary may prescribe and publish all necessary rules and regulations for carrying out the provisions of this chapter.

§ 814. Licenses; qualifications; limitations; revocation and renewal

(a) Any person who desires to procure a license to produce the opium poppy, or to manufacture opium or opium products, shall make application therefor in such manner and form as the Secretary shall by rules and regulations prescribe.

(b) A license to produce the opium poppy shall be issued only to a person who, in the opinion of the Secretary, is determined to be a person—

- (1) of good moral character;
- (2) of suitable financial standing and farming experience;
- (3) who owns or controls suitable farm land to be used as a production area, in such locality, as will, in the judgment of the Secretary, render reasonably probable the efficient and diligent performance of the operations of producing the opium poppy in appropriate number and quality; and
- (4) who complies with such additional requirements as the Secretary shall deem and prescribe as reasonably necessary for the controlled production and distribution of the opium poppy.

Each such license shall be nontransferable and shall be valid only to the extent of the production area and maximum weight of opium poppy yield specified in the license, shall state the locality of the production area, and shall be effective for a period of one year from the date of issue and may be renewed, in the discretion of the Secretary, for a like period.

(c) A license to manufacture opium or opium products shall be issued only to a person who, in the opinion of the Secretary, is determined to be a person—

- (1) of good moral character;
- (2) who possesses a method and facilities, deemed satisfactory

to the Secretary, for the efficient and economical extraction of opium or opium products;

(3) who has such experience in manufacturing and marketing other medicinal drugs as to render reasonably probable the orderly and lawful distribution of opium or opium products of suitable quality to supply medical and scientific needs; and

(4) who complies with such additional requirements as the Secretary shall deem and prescribe as reasonably necessary for the controlled production, manufacture, and distribution of the opium poppy, opium, or opium products.

Such license shall be nontransferable, shall state the maximum quantity of opium poppies purchasable or obtainable thereunder, and shall be effective for a period of one year from the date of issue and may be renewed, in the discretion of the Secretary, for a like period.

(d) All licenses issued under this section shall be limited to such number, localities, and areas as the Secretary shall determine to be appropriate to supply the medical and scientific needs of the United States for opium or opium products, with due regard to provision for reasonable reserves. Nothing contained in this section shall be construed as requiring the Secretary to issue or renew any license or licenses under the provisions hereof.

(e) The Secretary may revoke or refuse to renew any license issued under this section, if, after due notice and opportunity for hearing, he finds such action to be in the public interest, or finds that the licensee has failed to maintain the requisite qualifications.

§ 815. Distribution by Federal Government; personnel of Treasury Department excepted from prohibitions

(a) The Secretary, whenever in his opinion the medical and scientific needs of the Nation will not be met by importation or licensed production, shall provide for the acquisition of opium poppy seed, for the production of the opium poppy, for the manufacture of opium or opium products, and for the use, sale, giving away, or other proper distribution of opium poppy seed, opium poppies, opium, or opium products by the United States Government either directly or through and with the approval of the head of any agency of the Government, including any Government-owned or controlled corporation.

(b) None of the prohibitions contained in this chapter shall apply to any officer or employee of the United States Treasury Department, who in the performance of his official duties and within the scope of his authority engages in any of the businesses or activities herein described, nor to any other officer or employee of the United States

Government, who in the performance of his official duties, within the scope of his authority and with the approval of the Secretary, engages in any of the businesses or activities herein described.

§ 816. Production, purchase, manufacture, sale or transportation by unlicensed persons

(a) No person who is not the holder of a proper license authorizing him to produce the opium poppy, duly issued to him by the Secretary, shall produce or attempt to produce the opium poppy, or permit the production of the opium poppy in or upon any place owned, occupied, used, or controlled by him.

(b) Except as otherwise provided in subsection (e) of this section, no person shall—

(1) purchase or in any other manner obtain the opium poppy, unless he is the holder of a proper license to produce the opium poppy or to manufacture opium or opium products, duly issued to him by the Secretary; or

(2) sell, transfer, convey any interest in, or give away the opium poppy to any person not so licensed.

(c) No person who is not the holder of a proper license authorizing him to manufacture opium or opium products, duly issued to him by the Secretary, shall manufacture, compound, or extract opium or opium products from the opium poppy.

(d) No person who is not the holder of a proper license authorizing him to produce the opium poppy or to manufacture opium or opium products, duly issued to him by the Secretary, shall send, ship, carry, transport, or deliver any opium poppies within any State, Territory, the District of Columbia, the Canal Zone, or insular possession of the United States, or from any State, Territory, the District of Columbia, the Canal Zone, or insular possession of the United States, into any other State, Territory, the District of Columbia, the Canal Zone, or insular possession of the United States. Nothing contained in this subsection shall apply to any common carrier engaged in transporting opium poppies pursuant to an agreement with a person duly licensed under section 814 of this title as a producer of the opium poppy, or as a manufacturer of opium or opium products, or to any employee of any person so licensed while acting within the scope of his employment.

(e) No person shall sell, transfer, convey any interest in, or give away, except to a person duly licensed under section 814 of this title, opium poppy seed for the purpose of opium poppy production, nor

shall any unlicensed person purchase or otherwise obtain such seed for such purpose; but the seed obtained from opium poppies produced by licensed producers may be sold or transferred by such producers to unlicensed persons, and may thereafter be resold or transferred, for ultimate consumption as a spice seed or for the manufacture of oil.

§ 817. Seizure and forfeiture of opium poppies illegally possessed; disposition

(a) Any opium poppies produced or otherwise obtained in violation of any of the provisions of this chapter shall be seized by, and forfeited to, the United States.

(b) The failure, upon demand by the Secretary, or his duly authorized agent, of the person in occupancy or control of land or premises upon which opium poppies are being produced or stored to produce an appropriate license, or proof that he is the holder thereof, shall constitute authority for the seizure and forfeiture of such opium poppies.

(c) The Secretary, or his duly authorized agent, shall have authority to enter upon any land (but not a dwelling house, unless pursuant to a search warrant issued according to law) where opium poppies are being produced or stored, for the purposes of enforcing the provisions of this chapter.

(d) Any opium poppies, the owner or owners of which are unknown, seized by or coming into the possession of the United States in the enforcement of this chapter shall be forfeited to the United States.

(e) The Secretary shall destroy any opium poppies seized by, and forfeited to, the United States under this section, or deliver them for medical or scientific purposes to any department, bureau, or other agency of the United States Government, upon proper application therefor under such regulations as he may prescribe.

§ 818. Penalties

(a) Any person who violates any provision of this chapter shall be fined not more than \$2,000 or imprisoned not more than five years, or both.

(b) Any person who willfully makes, aids, or assists in the making of, or procures, counsels, or advises in the preparation or presentation of, a false or fraudulent statement in any application for a license under the provisions of section 814 of this title shall (whether or not such false or fraudulent statement is made by or with the knowledge or consent of the person authorized to present the application) be fined not more than \$2,000 or imprisoned not more than one year, or both.

§ 819. Pleading, presumptions, and burden of proof

It shall not be necessary to negative any exemptions set forth in this

chapter in any complaint, information, indictment, or other writ or proceeding laid or brought under this chapter and the burden of proof of any such exemption shall be upon the defendant. In the absence of the production of an appropriate license by the defendant, he shall be presumed not to have been duly licensed in accordance with section 814 of this title and the burden of proof shall be on the defendant to rebut such presumption.

§ 820. Application to, and of, other laws

Nothing in this chapter shall be construed to repeal any provisions of the Internal Revenue Code, but nothing in that Code shall apply to the production, sale, or transfer of opium poppies, when such opium poppies are lawfully produced, sold, or transferred by persons duly and properly licensed under section 814 of this title in conformity with the regulations issued pursuant to such section.

§ 821. Territorial application

The provisions of this chapter shall apply to the several States, the District of Columbia, the Territory of Alaska, the Territory of Hawaii, the Canal Zone, Puerto Rico, and the other insular possessions of the United States.

§ 822. Short title

This chapter may be cited as the "Opium Poppy Control Act".

SEC. 2. Section 1 of the Act approved May 29, 1884 (ch. 60, 23 Stat. 31; 7 U. S. C., sec. 391), as amended, is amended to read as follows:

"SEC. 1. There shall be in the Department of Agriculture a Bureau of Animal Industry. The Secretary of Agriculture is authorized to appoint a chief thereof, who shall be a competent veterinary surgeon. The functions of the Bureau of Animal Industry shall be vested in the Secretary of Agriculture or, subject to his direction and control, in such officers and agencies of the Department of Agriculture as he may designate. Such functions shall include the duty to investigate and report upon the condition of the domestic animals and poultry of the United States, their protection and use, and also to inquire into and report the causes of communicable diseases among them, and the means for the prevention and cure of the same, and to collect such information on these subjects as shall be valuable to the agricultural and commercial interests of the country."

SEC. 3. The first paragraph of section 1 of the Act approved March 28, 1928 (chapter 266, 45 Stat. 374; 31 U. S. C., sec. 529a), as amended, is amended (1) by striking out "Division of Disbursement", as now appearing in such paragraph, and, in lieu thereof, inserting "Fiscal Service"; and (2) by striking out, after the first semicolon, "the Act

entitled ‘An Act to amend an Act entitled “An Act to prohibit the importation and use of opium for other than medicinal purposes”, approved February 9, 1909’, as amended, known as the ‘Narcotic Drugs Import and Export Act’”, and inserting in lieu thereof “chapter 93 of Title 21, United States Code”.

SEC. 4. (a) Subsection (a) of section 302 of the Act approved July 1, 1944 (chapter 373, Title III, 58 Stat. 692; 42 U. S. C., sec. 242) is amended by striking out the reference “the Narcotic Drugs Import and Export Act, as amended”, appearing at the end of such subsection, and inserting in lieu thereof “chapter 93 of Title 21, United States Code”.

(b) Subsection (d) of section 7 of the Act approved August 9, 1939 (chapter 618, 53 Stat. 1293; 49 U. S. C., sec. 787 (d)), as amended, is amended by striking out the reference “the Narcotic Drugs Import and Export Act,” appearing in such subsection.

SEC. 5. The opening clause of subsection (f) of section 15 of the Federal Trade Commission Act (15 U. S. C., sec. 55 (f)) as amended, which subsection was added to such section 15 by section 4 (b) of the Act approved March 16, 1950 (chapter 61, 64 Stat. 21), is amended by striking out “and section 407 of the Federal Food, Drug, and Cosmetic Act, as amended”.

SEC. 6. If any part of Title 21, United States Code, as set out in section 1 of this Act, shall be held invalid, the remainder of such title shall not be affected thereby.

SEC. 7. No inference of a legislative construction is to be drawn by reason of the chapter in Title 21, United States Code, as set out in section 1 of this Act, in which any section is placed, nor by reason of the catchlines used in such title.

SEC. 8. All orders, rules, and regulations in effect on the effective date of this Act, which were adopted under the authority of the Acts of Congress from which Title 21, United States Code, as set out in section 1 of this Act, is derived, shall continue in effect until modified, amended, superseded, or repealed under the authority of such title.

SEC. 9. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of Title 21, United States Code, as set out in section 1 of this Act.

SEC. 10. The provisions of this Act shall take effect on January 1, 1955.

SEC. 11. The sections or parts thereof of the Statutes at Large enumerated in the following schedule are hereby repealed. Any rights or

liabilities now existing under such sections or parts thereof shall not be affected by this repeal.

Statutes at Large						U. S. Code	
Date	Chapter	Title	Section	Volume	Page	Title	Section
1884—May 29	60		2, 3, 4, 5, 6, 7, 8, 9	23	31-33	21	112, 113, 114, 117-120, 130
Do	60		10	23	33	{	391 note
1887—Feb. 23	210		1, 2, 3	24	409		112 note
1890—Aug. 30	839		1, 2, 3	26	414, 415		191-193
Do	839		4, 6, 7, 8, 9, 10	26	415-417	21	1 note, 71 note
1897—Mar. 2	358		1, 2, 3, 4, 5, 6, 7, 8, 9, 10	29	604-607	21	18, 101-105
1902—May 9	784		1	32	193	21	41-46, 47-50
July 1	1357		1, 2	32	632	21	25
1903—Feb. 2	349		1, 2, 3	32	791, 792	21	16, 17
1905—Mar. 3	1496		1, 2, 3, 4, 6	33	1264, 1265	21	111, 112, 113, 120-122
1906—June 30	3913 (part)			34	¹ 679	21	123-127
1907—Mar. 4	2907 (part)			34	² 1260-1265	21	95
1908—May 16	170			35	163	21	71-92
May 23	192 (part)			35	³ 254	21	41
1909—Feb. 9	⁴ 100		1, 2, 3, 4, 5, 6, 7, 8, 9	35	614	21	94a
1910—May 26	256 (part)			36	⁵ 440	21	171-173, 174, 176-184, 185
1913—Mar. 4	145 (part)			37	⁶ 832, 833	21	131
1914—June 30	131 (part)			38	⁷ 419	21	151-158
Do	131 (part)			38	⁸ 420	21	128
1915—Mar. 3	74		1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13.	38	817-822	21	94
Mar. 4	144 (part)			38	⁹ 1102	21	201-215
1917—Aug. 10	52		9	40	275	21	24
1918—Nov. 21	212		3	40	1048, 1049	21	106, 107
1919—July 24	26 (part)			41	¹⁰ 241	21	106, 107
Do	26 (part)			41	¹¹ 271	21	96
1920—May 31	217 (part)			41	¹² 699	21	321h
Do	217 (part)			41	¹³ 712, 713	21	116
1923—Mar. 4	262		1, 2, 3	42	1486, 1487	21	41-44, 46-63
Do	262		¹⁴ 4			21	61-63
Do	268			42	1500	21	64
1926—June 28	700		1, 2	44	774, 775	21	321a
1927—Jan. 18	39 (part)			44	¹⁵ 984	21	104, 115, 115
Feb. 15	155		1, 2, 3, 4, 5, 6, 7, 8, 9	44	1101-1103	21	note
Mar. 4	489		1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12.	44	1406-1410	15	26
1928—Feb. 7	30			45	59	{	141-149
May 16	572 (part)			45	¹⁷ 548		401-409, 409
1929—Feb. 16	22 (part)			45	¹⁸ 1198		note, 410, 411
1930—June 14	488		6, 7, 8	46	587	21	¹⁶ 391
July 3	829			46	850	21	111-115, 117- 126, 128, 130
1931—Feb. 28	348			46	1460	21	26
1934—June 22	712		¹⁹ 2	48	1204	21	26
June 26	756			48	1225	21	173a, 197, 198
1935—Aug. 27	739			49	871	21	199

¹ Only the second full paragraph on this page, of which the first sentence was classified to the United States Code, 1946 ed., as section 95 of title 21 thereof, and the remainder was not classified to such Code.

² Commencing with the paragraph headed "For meat inspection," on page 1260, and continuing on to the bottom of such page, inclusive; all that appears on pages 1261, 1262, 1263 and 1264, including the paragraph which commences on page 1264 and ends on page 1265; and the first full paragraph on page 1265.

³ Only the proviso which commences near the bottom of this page, and ends on page 255 with the word "certified".

⁴ As amended by Acts Jan. 17, 1914, ch. 9, 38 Stat. 275-277; May 26, 1922, ch. 202, §§ 1-4, 42 Stat. 596-598; June 7, 1924, ch. 352, 43 Stat. 657; July 1, 1944, ch. 377 § 8, 58 Stat. 721; Mar. 8, 1946, ch. 81, § 7, 60 Stat. 39; Nov. 2, 1951, ch. 666, §§ 1, 5 (1), 65 Stat. 767, 769; June 27, 1952, ch. 477, § 403 (a) (10), 66 Stat. 279.

⁵ Only the third paragraph under the heading "Miscellaneous" appearing on this page.

⁶ All of the paragraph commencing on page 832, "That from and after July first", and ending on page 833, except the final sentence of such paragraph, commencing, "That there is herchy appropriated".

⁷ Only the first proviso appearing on this page.

⁸ Only the proviso in the paragraph commencing, "Meat inspection, Bureau of Animal Industry", and appearing on this page.

⁹ Only the proviso appearing on this page.

¹⁰ All of the paragraph beginning "Meat inspection, Bureau of Animal Industry", appearing on this page except the first sentence thereof.

¹¹ All of the fourth full paragraph appearing on this page.

¹² Only the last two provisos in the paragraph which begins on page 698 and ends on page 699, said two provisos appearing on page 699.

¹³ All of the paragraph which begins on page 712 and ends on page 713, except the final sentence of such paragraph.

¹⁴ As added by Act Aug. 27, 1935, ch. 743, 49 Stat. 885.

¹⁵ Only the proviso in the paragraph headed "Meat inspection", appearing on this page.

¹⁶ The amendments made by the Act of Feb. 7, 1928, ch. 30, to section 1 of Act May 29, 1884, ch. 60 (23 Stat. 31; 7 U. S. C., sec. 391), are also repealed, but such repeal shall not be construed as repealing such section 1 of the Act of 1884 (7 U. S. C., sec. 391) which, as amended by another section of this Act, shall remain in full force and effect.

¹⁷ The first proviso appearing on this page.

¹⁸ The proviso in the paragraph headed "Meat inspection," appearing on this page.

¹⁹ Only that part of this section which amends that part of Act June 30, 1906, ch. 3913, 34 Stat. 679 relating to a permanent appropriation for the inspection of cattle, sheep, swine, and goats and the meat and meat food products thereof, and expenses incidental to such inspection, including the proviso in subsection (a), and item (3) of subsection (b), of such section 2.

Statute at Large						U. S. Code	
Date	Chapter	Title	Section	Volume	Page	Title	Section
1938—June 25.....	675	-----	Ali	52	1040-1059	21	301, 321, 321a, 321h, 331-337, 341-346, 351-357, 361-364, 371, 372, 372a, 373-376, 381, 391, 392, and notes thereunder, and notes preceding 61, 141
June 29.....	810	-----	-----	52	1235	21	91
1939—May 2.....	107	I	1 (part)	53	²⁰ 631	21	376 note
June 23.....	242	-----	1, 2, 3	53	853, 854	21	342 note, 343 note, 351 note, 352 note, 361 note, 362 note
1940—June 27.....	437	I	101 (part)	54	²¹ 632	21	46a
1941—July 1.....	269	II (part)	-----	55	²² 478	21	46a
July 11.....	289	-----	1, 2	55	584	21	184a, 184a note
Dec. 22.....	613	-----	1, 2, 3, 4	55	851, 852	21	331, 352, 356, 356 note
1942—Dec. 11.....	720	-----	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17	56	1045-1049	21	188, 188 note, 188a-188n
1943—July 12.....	221	II	1 (part)	57	²³ 500	21	372a
1944—Mar. 2.....	77	-----	-----	58	108	21	321c
1944—Sept. 21.....	412	I	101 (a)	58	734	21	114a
1945—July 6.....	281	-----	1, 2, 3	59	463, 464	21	331, 352, 357
1947—Feb. 28.....	8	-----	1, 2, 3, 4	61	7, 8	21	114h, 114h note, 114c, 114d
Mar. 10.....	16	-----	1, 2, 3	61	11, 12	21	331, 352, 357
July 30.....	356	I	1 (part)	61	²⁴ 531, 532	21	97, 97a, 97b, 97c, 97d
1948—Apr. 24.....	229	-----	-----	62	198	21	113a
June 5.....	423	-----	-----	62	344	21	98
June 16.....	477	-----	1, 2	62	458	21	114e, 114f
June 24.....	613	-----	1, 2	62	582	21	331, 334
June 25.....	646	-----	5	62	986	21	193
1949—June 29.....	280	I	101 (part)	63	²⁵ 331	-----	-----
July 13.....	305	-----	1, 2	63	409, 410	21	352, 357
Oct. 18.....	696	-----	1, 2, 3	63	882, 883	21	381
1950—Mar. 16.....	61	-----	3, 6	64	20, 22	21	331, 342, 347
1951—Oct. 26.....	578	-----	1, 2, 3	65	648, 649	21	333, 333 note, 353, 353 note
Oct. 30.....	637	-----	1, 2	65	693, 694	21	114a, 114a-1
Nov. 2.....	666	-----	1	65	767, 768	21	174
1953—Aug. 5.....	334	-----	1, 2	67	389	21	352, 357
Aug. 7.....	350	-----	1, 2, 3	67	476, 477	21	331, 334, 374
Aug. 8.....	381	-----	-----	67	493, 494	21	114a
Do.....	394	-----	8	67	506	21	171
1954—Apr. 15.....	143	-----	1, 2	68	54, 55	21	341, 371

²⁰ In the paragraph beginning on page 631 and ending on page 632, only the words reading, "which section is hereby made immediately effective" appearing on page 631.

²¹ Only the proviso in the paragraph headed "Food and Drug Administration" appearing on this page.

²² Only the proviso in the paragraph beginning "Enforcement of Tea Importation Act" appearing on this page.

²³ Only the following words in the second paragraph appearing on this page: "which may hereafter be cited as section 702A of the Federal Food, Drug, and Cosmetic Act"

²⁴ All of the paragraph beginning "Meat Inspection," which commences on page 531 and ends on page 532.

²⁵ The two provisos in the last paragraph on this page.

83d CONGRESS
2d Session

H. R. 9728

[Report No. 1979]

A BILL

To revise, codify, and enact into law, title 21 of the United States Code, entitled "Food, Drugs, and Cosmetics".

By Mr. McCulloch

JUNE 29, 1954

Referred to the Committee on the Judiciary

JUNE 29, 1954

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued July 7, 1954
For actions of July 6, 1954
83rd-2nd, No. 124

CONTENTS

Animal and plant quarantine	Foreign trade.....16	Price supports.....3,19
.....17	Health.....21	Reclamation.....7,12
Appropriations.....10	Labor, farm.....10,18	Reports.....16
Buildings.....10	Lands, public.....11	Surplus commodities.....19
Drought relief.....4	Law revisions.....14	Taxation.....15
Education.....19	Minerals.....11	Transportation.....5
Electrification.....20	Personnel.....8	TVA.....20
Farm program.....2,19	Pesticide chemicals.....1	Vehicles.....10
Foreign aid.....6	Prices, farm.....19	Water compact.....13

HIGHLIGHTS: Senate passed bill to regulate pesticide chemicals. Sen. Mansfield defended current price support program. Sen. Murray suggested limitation on price support for big producers. Sen. Williams criticized USDA administration of drought relief. House passed bill revising food-drug title of U. S. Code. Rep. Hebert criticized USDA for holding cattle in La. and introduced measure to prevent their disposition.

SENATE

1. PESTICIDE CHEMICALS. Passed as reported H. R. 7125, to provide for regulation of residues of pesticides and chemicals in or on raw agricultural commodities (pp. 9235-7).
2. FARM PROGRAM. H. R. 9680, the farm program bill as passed by the House, was referred to the Senate Agriculture and Forestry Committee (p. 9218).
Sen. Langer inserted a Farmers Union local resolution on various aspects of the farm program (p. 9216).
3. PRICE SUPPORTS. Sen. Mansfield defended the present price support program and stated that its cost has been small compared with subsidies to business (pp. 9258-63).
Sen. Murray defended the current price support program and suggested that its benefits to large producers be restricted (pp. 9222-3).
4. DROUGHT RELIEF. Sen. Williams criticized assistance to the King ranch in connection with the drought-relief program and inserted a letter from K. L. Scott on this matter (pp. 9263-4).
5. TRANSPORTATION. Passed with amendments S. 906, to establish the finality of contracts between the Government and common carriers of passengers and freight

subject to ICC regulation (pp. 9241-3).

6. FOREIGN AID. Agreed, as reported, to S. Res. 214, providing for a study of technical assistance programs by the Foreign Relations Committee (p. 9227). Sen. Smathers requested additional aid for Latin America (p. 9218).
7. RECLAMATION. Passed with amendment H. R. 4854, to authorize the Foster Creek project, Wash. (pp. 9223-4).
8. PERSONNEL. Discussed and passed over S. 3681, to aid in providing life insurance for Federal employees (p. 9241). Sen. Knowland announced that this bill is to be debated later in the week (p. 9251).
Both Houses received from the Budget Bureau a report on operations under title X of the Classification Act, regarding management improvement and awards; to Post Office and Civil Service Committees (pp. 9216, 9385).
9. VOCATIONAL REHABILITATION. S. 2759, to extend and improve the Vocational Rehabilitation Act, was made the unfinished business (p. 9263).

HOUSE

10. APPROPRIATIONS. H. Doc. 460 (July 2) is a supplemental appropriation estimate of \$350,000 additional to the Labor Department to recruit additional Mexican farm laborers to harvest the cotton, vegetable, and citrus crops. The Budget Bureau letter states, "The recently intensified program...to apprehend and deport aliens is expected to curtail the number of Mexican farm laborers employed illegally and increase the demand for legally recruited workers."
H. Doc. 459 (July 2) is a supplemental appropriation estimate of \$60,000 to GSA "to make the overall studies and to direct the establishment of" motor vehicle pools pursuant to H. R. 8753. The Budget Bureau letter states, "Ordinary operating and supervisory costs will be paid for by the agencies using these pools." The document also includes a Presidential recommendation for legislation to provide that "Leased warehouse space temporarily in excess of operating requirements may be subleased to commercial organizations and the proceeds credited to the fund from which rental payments are made."
11. MINERALS; PUBLIC LANDS. The Interior and Insular Affairs Committee reported with amendment H. R. 8896, to provide for multiple mineral development of the same tracts of public lands (H. Rept. 2028) (p. 9386).
12. RECLAMATION. Passed without amendment S. J. Res. 165, to authorize the Secretary of the Interior to include the Glendo unit, Wyo. in the comprehensive plan for development of the water resources of the Missouri River Basin authorized by the Flood Control Acts of 1944 and 1946. No additional funds for the construction of the Missouri River Basin project are authorized by this measure. (pp. 9293-4). This measure will now be sent to the President.
13. WATER COMPACT. Passed without amendment S. 3336, to include Nevada and Utah among the States authorized to negotiate a compact for division of Columbia River Waters (p. 9291). This bill will now be sent to the President.
14. LAW REVISIONS. Passed without amendment bills to revise, codify, and enact into positive law parts of the U. S. Code as follows: H. R. 9728, title 21, "Food, Drugs, and Cosmetics" (including various provisions enforced by this Department regarding animals and poultry)(pp. 9295-317); H. R. 9729, "Census"

Page 1, line 4, strike out "plebescite" and insert "plebiscite."

The committee amendment was agreed to.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

(Mr. HOLIFIELD (at the request of Mr. WALTER) was given permission to extend his remarks at this point in the RECORD.)

[Mr. HOLIFIELD addressed the House. His remarks will appear hereafter in the Appendix.]

AUTHORIZING HONOLULU (HAWAII) TO ISSUE PUBLIC IMPROVEMENT BONDS

The Clerk called the bill (H. R. 7517) to enable the Legislature of the Territory of Hawaii to authorize the city and county of Honolulu, a municipal corporation, to issue public improvement bonds.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Legislature of the Territory of Hawaii, notwithstanding any provisions of the Hawaiian Organic Act, any laws of the Territory of Hawaii or of any acts of this Congress to the contrary, may authorize the city and county of Honolulu, a municipal corporation of the Territory of Hawaii, to issue bonds in the sum of \$2,000,000 for the purpose of enabling it to construct sewerage systems in the city and county of Honolulu.

SEC. 2. The bonds issued under authority of this act shall be serial bonds, payable in substantially equal annual installments, the first installment to mature not later than 5 years and the last installment to mature not later than 30 years from the date of such issue. Such bonds may be issued without the approval of the President of the United States.

SEC. 3. Act 254 of the Session Laws of Hawaii, 1953, pertaining to the issuance of public improvement bonds, as authorized by this act, is hereby ratified and confirmed subject to the provisions of this act.

With the following committee amendments:

Page 2, line 8, after "SEC. 3.", insert the words "Sections 1 and 2 of."

Page 2, line 11, strike the word "is" and insert "are."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING HONOLULU (HAWAII) TO ISSUE PUBLIC IMPROVEMENT BONDS

The Clerk called the bill (H. R. 7518) to enable the Legislature of the Territory of Hawaii to authorize the city and county of Honolulu, a municipal corporation, to issue public improvement bonds.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Legislature of the Territory of Hawaii, notwithstanding any provisions of the Hawaiian Organic Act,

any laws of the Territory of Hawaii or of any act of this Congress to the contrary, may authorize the city and county of Honolulu, a municipal corporation of the Territory of Hawaii, to issue bonds in the sum of \$1 million, for the purpose of enabling it to construct flood-control and drainage systems in the city and county of Honolulu.

SEC. 2. The bonds issued under authority of this act shall be serial bonds, payable in substantially equal annual installments, the first installment to mature not later than 5 years and the last installment to mature not later than 30 years from the date of such issue. Such bonds may be issued without the approval of the President of the United States.

SEC. 3. Act 254 of the Session Laws of Hawaii 1953, pertaining to the issuance of public improvement bonds, as authorized by this act, is hereby ratified and confirmed subject to the provisions of this act.

With the following committee amendments:

Page 2, line 3, after "SEC. 3." insert the words "Sections 3 and 4 of."

Page 2, line 10, strike the word "is" and insert in lieu thereof the word "are."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REVISION AND CODIFICATION OF TITLE 21, UNITED STATES CODE, ENTITLED "FOOD, DRUGS, AND COSMETICS"

The Clerk called the bill (H. R. 9728) to revise, codify, and enact into law, title 21 of the United States Code, entitled "Food, Drugs, and Cosmetics."

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. BYRNES of Wisconsin. Mr. Speaker, reserving the right to object, this is a revision of title 21, United States Code, entitled "Food, Drugs, and Cosmetics," and consists of about 90 pages. We have no departmental report as far as the committee is concerned. I wonder if someone on the committee can advise whether this has departmental approval and whether it comes out of the committee by unanimous vote.

Mr. McCULLOCH. Mr. Speaker, I am pleased to attempt to answer the question of the gentleman from Wisconsin. In the first place, this bill has been introduced in the Congress for at least two previous sessions; therefore, has been available for study during all of that time. There have been complete consultations with the various departments which would be affected by this bill. There is no objection from such departments and communications are or should be on the way to the Committee on the Judiciary, to that effect. The bill did come from the Committee on the Judiciary by unanimous vote.

Mr. BYRNES of Wisconsin. Do I understand that as far as the gentleman knows there is no opposition from any quarter to the substantive changes that are made in this revision?

Mr. McCULLOCH. So far as I know, there is no objection to the bill. I may further say it is not the intention of this

bill and it is not the intention of the Committee on the Judiciary that there be any changes made in existing law whatsoever.

Mr. ROGERS of Colorado. Mr. Speaker, will the gentleman yield?

Mr. McCULLOCH. I yield to the gentleman from Colorado.

Mr. ROGERS of Colorado. I am also a member of the subcommittee of which the gentleman is a member and to which he has just referred. As I understand it, the complete cooperation of the department was had at all times in the consideration of this recodification that the Committee on the Judiciary is going through. We were led to believe through the cooperation of the department that this recodification met with their approval in every respect.

Mr. McCULLOCH. I thank the gentleman.

Mr. BYRNES of Wisconsin. Mr. Speaker, I withdraw my reservation.

The SPEAKER. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That title 21 of the United States Code, entitled "Food, Drugs, and Cosmetics", is hereby revised, codified, and enacted into law, and may be cited as "Title 21, United States Code, § —", as follows:

TITLE 21—FOOD, DRUGS, AND COSMETICS	
Part	Sec.
I. Food and drugs generally.....	1
II. Animals, poultry, and meats.....	451
III. Narcotics.....	711
PART I—FOOD, DRUGS, AND COSMETICS GENERALLY	
Chapter	Sec.
1. Food and Drug Administration.....	1
3. Food, Drugs, and Cosmetics.....	41
5. Milk and Cream.....	201
7. Tea Importation.....	261
9. Caustic Poisons.....	311

Chapter 1—Food and Drug Administration	
Sec.	
1. Establishment.	
2. Functions of Secretary of Health, Education, and Welfare.	
3. Board of Tea Experts.	
4. Board of Tea Appeals.	

§ 1. Establishment

The Food and Drug Administration shall continue as a constituent organization of the Department of Health, Education, and Welfare.

§ 2. Functions of Secretary of Health, Education, and Welfare

The Secretary of Health, Education, and Welfare shall perform the functions prescribed for him under part I of this title, and may from time to time make such provisions as he deems appropriate authorizing the performance of any of the functions of the Secretary by any other officer, or by any agency or employee, of the Department.

§ 3. Board of Tea Experts

Before February 16 of each year, the Secretary of Health, Education, and Welfare shall appoint a Board of Tea Experts of seven members who are experts in teas, for a term of 1 year subject to removal by the Secretary. The Secretary shall fill vacancies by appointment for an unexpired term.

The Board shall appoint a presiding officer, who shall be the medium of all communications to or from the Board. Each member of the Board shall receive as compensation the sum of \$50 per annum, and necessary

expenses in connection with his duties under this title to be paid by the Secretary of Health, Education, and Welfare.

§ 4. Board of Tea Appeals

The United States Board of Tea Appeals shall consist of three employees of the Department of Health, Education, and Welfare designated by the Secretary of Health, Education, and Welfare.

Chapter 3—Food, drugs, and cosmetics

Subchapter I—Definitions, determinations, and representations

Sec.

41. Definitions.
42. Determination of misbranding.
43. Representations as antiseptic.
44. Short title.

Subchapter II—Food

51. Definitions and standards for food; procedure governing establishment; objections; hearings; applicability of other provisions.
52. Adulterated food.
53. Misbranded food.
54. Exemptions.
55. Tolerances for poisonous ingredients; certification of coal-tar colors for foods.
56. Emergency permit control.
57. Sea food; examination on request of packer; fees.
58. Colored oleomargarine; Congressional finding as to sale or serving.
59. Colored oleomargarine; sale in State where produced; packaging and labeling; service in restaurants.
60. Oleomargarine, butterine, imitation butter or cheese; application of State laws.
61. Exemption of meats and meat food products.

Subchapter III—Drugs and Devices

71. Adulterated drugs and devices.
72. Misbranded drugs and devices.
73. Exemptions.
74. Certification of coal-tar colors for drugs.
75. New drugs.
76. Certification of drugs containing insulin.
77. Certification of drugs containing certain antibiotics.

Subchapter IV—Cosmetics

91. Adulterated cosmetics.
92. Misbranded cosmetics.
93. Exemptions.
94. Certification of coal-tar colors for cosmetics.

Subchapter V—Imports and Exports

111. Examination and refusal of imports.
112. Exports adulterated or misbranded.
113. Suspension of adulterated imports.

Subchapter VI—Administrative Provisions

131. Regulations; hearings; judicial review.
132. Examinations and investigations.
133. Records of interstate shipment.
134. Factory inspection; notice; reports; receipts for samples; copies of analyses.
135. Publicity.
136. Cost of certification of coal-tar colors.
137. Revision of Pharmacopoeia; development of analyses and tests.

Subchapter VII—Enforcement and penalties

151. Prohibited acts.
152. Penalties; exemptions.
153. Injunctions.
154. Libel for condemnation.
155. Hearing before violation reported.
156. Report of minor violations.
157. Proceedings in name of United States; subpoenas.

SUBCHAPTER I—DEFINITIONS, DETERMINATIONS, REPRESENTATIONS, AND SHORT TITLE

§ 41. Definitions

As used in this chapter—

(a) "Secretary" means the Secretary of Health, Education, and Welfare.

(b) "Department" means the Department of Health, Education, and Welfare.

(c) "Butter" means the food product usually known as butter, and which is made exclusively from milk or cream, or both, with or without common salt, and with or without additional coloring matter, and containing not less than 80 percent by weight of milk fat, all tolerances having been allowed for.

(d) "Cosmetic" means articles other than soap, (1) intended to be applied to or introduced into the human body for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) intended for use as a component of any such articles.

(e) "Device," except when used in sections 42, 53 (f) 72 (c), 92 (c), and 151 (i) of this title, means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended (1) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or (2) to affect the structure of any function of the body of man or other animals.

(f) "Drug" means (1) articles recognized in an official compendium; and (2) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (3) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and (4) articles intended for use as a component of any article specified in clauses (1), (2), or (3) of this paragraph; but does not include devices or their components, parts, or accessories.

(g) "Food" means (1) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article.

(h) "Interstate commerce" means (1) commerce between any State or Territory and any place outside thereof, and (2) commerce within the District of Columbia or within any other Territory not organized with a legislative body.

(i) "Label" means a display of written, printed, or graphic matter upon the immediate container other than a package liner, of any article; and a requirement made by or under authority of this chapter that any word, statement, or other information appear on the label shall not be considered to be complied with unless it also appears on or is easily legible through the outside container or wrapper, if any there be, of the retail package of such article.

(j) "Labeling" means all labels and other written, printed, or graphic matter (1) upon any article or any of its containers or wrappers, or (2) accompanying such article.

(k) "New drug" means—

(1) Any drug the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety of drugs, as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof, unless at any time prior to June 25, 1938, it was subject to the Food and Drug Act of June 30, 1906, as amended, and at such time its labeling contained the same representations concerning the conditions of its use; or

(2) Any drug the composition of which is such that, as a result of investigations to determine its safety for use under such conditions, it has become so recognized, but which has not, otherwise than in such in-

vestigations, been used to a material extent or for a material time under such conditions.

(l) "Nonfat dry milk solids" or "defatted milk solids" is the product resulting from the removal of fat and water from the sweet milk of cows, and containing (a) the lactose, milk proteins, and milk minerals in the same relative proportions as in the fresh milk from which made, (b) not over 5 percent by weight of moisture, and (c) not over 1½ percent by weight of fat content unless otherwise indicated.

(m) "Official compendium" means the official United States Pharmacopoeia. Official Homoeopathic Pharmacopoeia of the United States, official National Formulary, or any supplement to any of them.

(n) "Package" includes wrapped meats enclosed in papers or other materials as prepared by the manufacturers thereof for sale.

(o) "Person" means an individual, partnership, corporation, or association.

(p) "Territory" includes the District of Columbia and any Territory or possession of the United States, but not the Canal Zone.

§ 42. Determination of misbranding

If an article is alleged to be misbranded because the labeling is misleading, there shall be taken into account, among other things, in determining whether the labeling is misleading not only representations made or suggested by statement, word, design, device, or any combination thereof, but also the extent to which the labeling fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling relates under the conditions of use prescribed in the labeling thereof or under such conditions of use as are customary or usual.

§ 43. Representation as antiseptic

The representation of a drug in its labeling, as an antiseptic shall constitute a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or for such other use as involves prolonged contact with the body.

§ 44. Short title

This chapter may be cited as the "Federal Food, Drug, and Cosmetic Act."

SUBCHAPTER II—FOOD

§ 51. Definitions and standards for food; procedure governing establishment; objections; hearings; applicability of other provisions

(a) Whenever in the judgment of the Secretary such action will promote honesty and fair dealing in the interest of consumers, the Secretary shall promulgate regulations fixing and establishing for any food, under its common or usual name insofar as practicable, a reasonable definition and standard of identity, a reasonable standard of quality, and/or reasonable standards of fill of container.

The Secretary may not establish a definition and standard of identity or standard of quality for fresh or dried fruits, fresh or dried vegetables, or butter, but may establish definitions and standards of identity, relating only to maturity and to the effects of freezing, for avocados, cantaloups, citrus fruits, and melons.

In prescribing any standard of fill of container, the Secretary shall give consideration to the natural shrinkage in storage and in transit of fresh natural food and to need for the necessary packing and protective material.

In prescribing any standard of quality for any canned fruit or canned vegetable, the Secretary shall give consideration to and make due allowance for the differing characteristics of the several varieties of such fruit or vegetable.

In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted, the Secretary shall, for the purpose of promoting honesty and fair dealing in the interest of consumers, designate the optional ingredients which shall be named on the label.

(b) (1) Any action under subsection (a) of this section for the issuance, amendment, or repeal of any regulation shall be begun by a proposal made (A) by the Secretary of his own initiative, or (B) by petition of any interested person, showing reasonable grounds therefor, filed with the Secretary. The Secretary shall publish the proposal and shall afford all interested persons an opportunity to present their views thereon, orally or in writing. As soon as practicable thereafter, the Secretary shall by order act upon such proposal and shall make such order public. Except as provided in paragraph (2) of this subsection the order shall become effective at such time as may be specified therein, but not prior to the day following the last day on which objections may be filed under such paragraph.

(2) At any time prior to the 30th day after the date on which an order entered under paragraph (1) of this subsection is made public, any person who will be adversely affected by such order if placed in effect may file objections thereto with the Secretary, specifying with particularity the provisions of the order deemed objectionable, stating the grounds therefor, and requesting a public hearing upon such objections. Until final action upon such objections is taken by the Secretary under paragraph (3) of this subsection, the filing of such objections shall operate to stay the effectiveness of those provisions of the order to which the objections are made. As soon as practicable after the time for filing objections has expired the Secretary shall publish a notice in the Federal Register specifying those parts of the order which have been stayed by the filing of objections and, if no objections have been filed, stating that fact.

(3) As soon as practicable after such request for a public hearing, the Secretary, after due notice, shall hold such a public hearing for the purpose of receiving evidence relevant and material to the issues raised by such objections. At the hearing, any interested person may be heard in person or by representative. As soon as practicable after completion of the hearing, the Secretary shall by order act upon such objections and make such order public. Such order shall be based only on substantial evidence of record at such hearing and shall set forth, as part of the order, detailed findings of fact on which the order is based. The Secretary shall specify in the order the date on which it shall take effect, except that it shall not be made to take effect prior to the 90th day after its publication unless the Secretary finds that emergency conditions exist necessitating an earlier effective date, in which event the Secretary shall specify in the order his findings as to such conditions. Such order shall be subject to the provisions of section 131 (f) and (g) of this title.

§ 52. Adulterated food

A food is deemed to be adulterated—

(a) Poisonous, insanitary, etc., ingredients: (1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health unless the substance is not an added substance and its quantity in such food does not ordinarily render it injurious to health; or (2) if it bears or contains any added poisonous or added deleterious substance which is un-

safe within the meaning of section 55 of this title; or (3) if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for food; or (4) if it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth or whereby it may have been rendered injurious to health; or (5) if it is, in whole or in part, the product of a diseased animal or of an animal which has died otherwise than by slaughter; or (6) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

(b) Absence, substitution, or addition of constituents: (1) If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or (2) if any substance has been substituted wholly or in part therefor; or (3) if damage or inferiority has been concealed in any manner; or (4) if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

(c) Uncertified coal-tar coloring: If it bears or contains a coal-tar color other than one from a batch that has been certified in accordance with regulations as provided by section 55 of this title. This paragraph does not apply to citrus fruit bearing or containing a coal-tar color where application for listing of such color has been made under this chapter but not acted on by the Secretary, if such color was commonly used prior to June 25, 1938, for the purpose of coloring citrus fruit.

(d) Confectionery containing alcohol or nonnutritive substance: If it is confectionery, and it bears or contains any alcohol or nonnutritive article or substance except harmless coloring, harmless flavoring, harmless resinous glaze not in excess of four-tenths of 1 percent, natural gum, and pectin. This paragraph does not apply to any confectionery by reason of its containing less than one-half of 1 percent by volume of alcohol derived solely from the use of flavoring extracts, or to any chewing gum by reason of its containing harmless nonnutritive masticatory substances.

(e) Insanitary ingredients in oleomargarine or butter: If it is oleomargarine or margarine or butter and any of the raw material used therein consisted in whole or in part of any filthy, putrid, or decomposed substance, or such oleomargarine or margarine or butter is otherwise unfit for food.

§ 53. Misbranded food

A food is deemed to be misbranded—

(a) False or misleading labeling: If its labeling is false or misleading in any particular.

(b) Offer for sale under another name: If it is offered for sale under the name of another food.

(c) Imitation: If it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated.

(d) Misleading container: If its container is so made, formed, or filled as to be misleading.

(e) Package form: If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count. Under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary.

(f) Prominence of information on label: If any word, statement, or other information required by or under authority of this

chapter to appear on the label or labels is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(g) Representation as to identity: If it purports to be or is represented as a food for which a definition and standard of identity has been prescribed by regulations as provided by section 51 of this title, unless (1) it conforms to such definition and standard, and (2) its label bears the name of the food specified in the definition and standard, and, insofar as required by such regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such food.

(h) Representation as to quality and fill of container: If it purports to be or is represented as—

(1) a food for which a standard of quality has been prescribed by regulations as provided by section 51 of this title, and its quality falls below such standard, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard; or

(2) a food for which a standard or standards of fill of container has been prescribed by regulations as provided by section 51 of this title, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard.

(i) Label where no representation as to standard of identity: If it is not subject to the provisions of paragraph (g) of this section unless its label bears (1) the common or usual name of the food, if any there be, and (2) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavoring, and colorings without naming each. The Secretary shall promulgate regulations establishing exemptions to the extent that compliance with the requirements of clause (2) of this paragraph is impracticable, or results in deception or unfair competition.

(j) Representation for special dietary use: If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the Secretary by regulations prescribes as necessary in order fully to inform purchasers as to its value for such uses.

(k) Artificial flavoring, etc.; exception of articles from (g), (i), and (k): If it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact. The Secretary shall promulgate regulations establishing exemptions to the extent that compliance with the requirements of this paragraph is impracticable. The provisions of this paragraph and paragraphs (g) and (i) of this section with respect to artificial coloring shall not apply in the case of butter, cheese, or ice cream.

§ 54. Exemptions

The Secretary shall promulgate regulations exempting from any labeling requirement of this chapter (1) small open containers of fresh fruits and fresh vegetables and (2) food which is, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such food is not adulterated or misbranded under the provisions of this chapter upon removal from such processing, labeling, or repacking establishment.

§ 55. Tolerances for poisonous ingredients; certification of coal-tar colors for foods

(a) Any poisonous or deleterious substance added to any food, except where such substance is required in the production thereof or cannot be avoided by good manufacturing practice, shall be deemed to be unsafe for purposes of the application of clause (2) of section 52 (a) of this title. When such substance is so required or cannot be so avoided, the Secretary shall promulgate regulations limiting the quantity therein or thereon to the extent the Secretary finds necessary for the protection of public health, and any quantity exceeding the limits so fixed shall also be deemed to be unsafe for purposes of the application of clause (2) of section 52 (a) of this title. While such a regulation is in effect limiting the quantity of any such substance in the case of any food, such food shall not, by reason of bearing or containing any added amount of such substance, be considered to be adulterated within the meaning of clause (1) of section 52 (a) of this title. In determining the quantity of such added substance to be tolerated in or on different articles of food, the Secretary shall take into account the extent to which the use of such substance is required or cannot be avoided in the production of each such article and the other ways in which the consumer may be affected by the same or other poisonous or deleterious substances.

(b) The Secretary shall promulgate regulations providing for the listing of coal-tar colors which are harmless and suitable for use in food and for the certification of batches of such colors, with or without harmless diluents.

§ 56. Emergency permit control

(a) Whenever the Secretary finds after investigation that the distribution in interstate commerce of any class of food may, by reason of contamination with micro-organisms during the manufacture, processing, or packing thereof in any locality, be injurious to health, and that the injurious nature cannot be adequately determined after the articles have entered interstate commerce, the Secretary then, and in such case only, shall promulgate regulations providing for the issuance, to manufacturers, processors, or packers of such class of food in such locality, of permits to which shall be attached such conditions governing the manufacture, processing, or packing of such class of food, for the period of time necessary to protect the public health. After the effective date of such regulations, and during such period, no person shall introduce or deliver for introduction into interstate commerce any such food unless such manufacturer, processor, or packer holds a permit issued by the Secretary as provided by such regulations.

(b) The Secretary may suspend immediately upon notice any permit issued under authority of this section if it is found that any of the conditions of the permit have been violated. The holder of a permit so suspended may at any time apply for the reinstatement thereof and the Secretary shall, immediately after prompt hearing and an inspection of the establishment, reinstate such permit if it is found that adequate measures have been taken to comply with and maintain the conditions of the permit as originally issued or as amended.

(c) Any officer or employee designated by the Secretary shall have access to any factory or establishment, the operator of which holds a permit from the Secretary, for the purpose of ascertaining whether the conditions of the permit are being complied with. If access for such inspection is denied, the Secretary may suspend the permit until such access is freely given by the operator.

§ 57. Seafood; examination on request of packer; fees

(a) Upon application of any packer of seafood for shipment or sale within the jurisdiction of this chapter, the Secretary may designate inspectors to examine and inspect such food and the production, packing, and labeling thereof. If on such examination and inspection compliance is found with the provisions of this chapter and regulations promulgated thereunder, the applicant shall be authorized or required to mark the food as provided by regulation to show such compliance. The Secretary may promulgate regulations governing the sanitary and other conditions under which the service herein provided shall be granted and maintained, and for otherwise carrying out the purposes of this section.

(b) Services under this section shall be rendered only upon payment by the applicant of fees fixed by regulation in amounts necessary to provide, equip, and maintain an adequate and efficient inspection service. Receipts from such fees shall be covered into the Treasury and shall be available to the Secretary for expenditures incurred in carrying out the purposes of this section, including salaries of additional inspectors when necessary to supplement the number for whose salaries Congress has appropriated.

§ 58. Colored oleomargarine; congressional finding as to sale or serving

The Congress finds and declares that the sale, or the serving in public eating places, of colored oleomargarine or colored margarine without clear identification as such or which is otherwise adulterated or misbranded within the meaning of this chapter depresses the market in interstate commerce for butter and for oleomargarine or margarine clearly identified and neither adulterated nor misbranded, and constitutes a burden on interstate commerce in such articles. Such burden exists, irrespective of whether such oleomargarine or margarine originates from an interstate source or from the State in which it is sold.

§ 59. Colored oleomargarine; sale in State where produced; packaging and labeling; service in restaurants

(a) Colored oleomargarine or colored margarine which is sold in the same State or Territory in which it is produced shall be subject in the same manner and to the same extent to the provisions of this chapter as if it had been introduced in interstate commerce.

(b) No person shall sell, or offer for sale, colored oleomargarine or colored margarine unless—

(1) such oleomargarine or margarine is packaged;

(2) the net weight of the contents of any package sold in a retail establishment is one pound or less;

(3) there appears on the label of the package (A) the word "oleomargarine" or "margarine" in type or lettering at least as large as any other type or lettering on such label and (B) a full and accurate statement of all the ingredients contained in such oleomargarine or margarine; and

(4) each part of the contents of the package is contained in a wrapper which bears the word "oleomargarine" or "margarine" in type or lettering not smaller than 20-point type.

The requirements of this subsection shall be in addition to and not in lieu of any of the other requirements of this chapter.

(c) No person shall possess in a form ready for serving colored oleomargarine or colored margarine at a public eating place unless a notice that oleomargarine or margarine is served is displayed prominently and conspicuously in such place and in such

manner as to render it likely to be read and understood by the ordinary individual being served in such eating place or is printed or is otherwise set forth on the menu in type or lettering not smaller than that normally used to designate the serving of other food items. No person shall serve colored oleomargarine or colored margarine at a public eating place, whether or not any charge is made therefor, unless (1) each separate serving bears or is accompanied by labeling identifying it as oleomargarine or margarine, or (2) each separate serving thereof is triangular in shape.

(d) If colored oleomargarine or colored margarine complies with the requirements of subsection (b) of this section when served with meals at a public eating place, it shall, at the time of such service, be exempt from the requirements of section 53 of this title, except subsections (a) and (f) of such section.

(e) For the purposes of this section, colored oleomargarine or margarine is oleomargarine or margarine having a tint or shade containing more than one and six-tenths degrees of yellow, or of yellow and red collectively, but with an excess of yellow over red, measured in terms of the Lovibond tintometer scale or its equivalent, and the term "oleomargarine" or "margarine" includes—

(1) all substances, mixtures, and compounds known as oleomargarine or margarine;

(2) all substances, mixtures, and compounds which have a consistence similar to that of butter and which contains any edible oils or fats other than milk fat if made in imitation or semblance of butter.

§ 60. Oleomargarine, butterine, imitation butter or cheese; application of State laws

(a) Nothing in this chapter or sections 45 and 55 of title 15 shall be construed as authorizing the possession, sale, or serving of colored oleomargarine, or colored margarine in any State or Territory in contravention of the laws of such State or Territory.

(b) All articles known as oleomargarine, butterine, imitation, process, renovated, or adulterated butter, or imitation cheese, or any substance in the semblance of butter or cheese not the usual product of the dairy and not made exclusively of pure and unadulterated milk or cream, transported into any State or Territory or the District of Columbia, and remaining therein for use, consumption, sale, or storage therein, shall, upon the arrival within the limits therein be subject to the operation and effect of the laws thereof enacted in the exercise of its police powers to the same extent and in the same manner as though such articles or substances had been produced therein, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise.

§ 61. Exemption of meats and meat food products

Meats and meat food products are exempt from the provisions of this chapter to the extent of the application or the extension thereto of sections 491-510 of this title.

SUBCHAPTER III—DRUGS AND DEVICES

§ 71. Adulterated drugs and devices

(a) Poisonous, insanitary, etc., ingredients:

A drug or device is deemed to be adulterated—

(1) If it consists in whole or in part of any filthy, putrid, or decomposed substance; or

(2) If it has been prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth or

whereby it may have been rendered injurious to health; or

(3) If it is a drug and its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or

(4) if it is a drug and bears or contains, for purposes of coloring only, a coal-tar color other than one from a batch that has been certified in accordance with regulations as provided by section 74 of this title.

(b) Strength, quality, or purity differing from official compendium: If it purports to be or is represented as a drug the name of which is recognized in an official compendium, and its strength differs from, or its quality or purity falls below, the standard set forth in such compendium, determined in accordance with the tests or methods of assay set forth in such compendium. Whenever tests or methods of assay have not been prescribed in such compendium, or, if prescribed, are, in the judgment of the Secretary, insufficient for the making of such determination, the Secretary shall notify the appropriate body charged with the revision of such compendium, and if such body fails within a reasonable time to prescribe tests or methods of assay which, in the judgment of the Secretary, are sufficient for purposes of this paragraph, he shall promulgate regulations prescribing appropriate tests or methods of assay in accordance with which such determination as to strength, quality, or purity shall be made. No drug defined in an official compendium shall be deemed to be adulterated under this paragraph because it differs from the standard of strength, quality, or purity therefor set forth in such compendium, if its difference in strength, quality, or purity from such standard is plainly stated on its label. A drug recognized in both the United States Pharmacopoeia and the Homeopathic Pharmacopoeia of the United States shall be subject to the requirements of the United States Pharmacopoeia unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the Homeopathic Pharmacopoeia of the United States.

(c) Misrepresentation of strength, etc., where drug is unrecognized in compendium: If it is not subject to the provisions of paragraph (b) of this section and its strength differs from, or its purity or quality falls below, that which it purports or is represented to possess.

(d) Mixture with or substitution of another substance: If it is a drug and any substance has been (1) mixed or packed therewith so as to reduce its quality or strength or (2) substituted wholly or in part therefor.

§ 72. Misbranded drugs and devices

A drug or device is deemed to be misbranded—

(a) False or misleading labeling: If its labeling is false or misleading in any particular.

(b) Package form; contents of label: If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count. Under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary.

(c) Prominence of information on label: If any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary

individual under customary conditions of purchase and use.

(d) Habit-forming substance: If it is for use by man and contains any quantity of the narcotic or hypnotic substance alpha eucaine, barbituric acid, betaucaine, bromal, cannabis, carbomal, chloral, coca, cocaine, codeine, heroin, marihuana, morphine, opium, paraldehyde, peyote, or sulphonmethane; or any chemical derivative of such substance, which derivatives the Secretary, after investigation, finds to be, and by regulations designates as, habit forming; unless its label bears the name and quantity or proportion of such substance or derivative and in juxtaposition therewith the statement "Warning—May be habit forming."

(e) Designation of drug by name not in compendium: If it is a drug not designated solely by a name recognized in an official compendium unless its label bears (1) the common or usual name of the drug, if such there be; and (2), in case it is fabricated from two or more ingredients, the common or usual name of each active ingredient, including the quantity, kind, and proportion of any alcohol, and also including, whether active or not, the name and quantity or proportion of any bromides, ether, chloroform, acetanilid, acetphenetidin, amidopyrine, antipyrine, atropine, hyoscyne, hyoscyamine, arsenic, digitalis, digitalis glucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or any derivative or preparation of any such substances, contained therein. The Secretary shall promulgate regulations establishing exemptions to the extent that compliance with the requirements of clause (2) of this paragraph is impracticable.

(f) Directions for use and warnings on label: Unless its labeling bears (1) adequate directions for use; and (2) adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in such manner and form as are necessary for the protection of users. Where any requirement of clause (1) of this paragraph, as applied to any drug or device, is not necessary for the protection of the public health, the Secretary shall promulgate regulations exempting such drug or device from such requirement.

(g) Representation as recognized drug; packing and labeling: If it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed therein. The Secretary may consent to a modification of the method of packing. A drug recognized in both the United States Pharmacopoeia and the Homeopathic Pharmacopoeia of the United States shall be subject to the requirements of the United States Pharmacopoeia with respect to packaging and labeling unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the Homeopathic Pharmacopoeia of the United States.

(h) Deteriorative drugs; packing and labeling: If it has been found by the Secretary to be a drug liable to deterioration, unless it is packaged in such form and manner, and its label bears a statement of such precautions, as the Secretary by regulations requires as necessary for the protection of the public health. The Secretary shall not establish such a regulation for any drug recognized in an official compendium until the Secretary has informed the body charged with the revision of such compendium of the need for such a packaging or labeling requirements and such body has failed within a reasonable time to prescribe such requirements.

(i) Drug; misleading container; imitation; offer for sale under another name: (1) If it is a drug and its container is so made, formed, or filled as to be misleading; or (2) if it is an imitation of another drug; or (3),

if it is offered for sale under the name of another drug.

(j) Health-endangering when used as prescribed: If it is dangerous to health when used in the dosage, or with the frequency or duration prescribed, recommended, or suggested in the labeling thereof.

(k) Insulin not properly certified: If it is, or purports to be, or is represented as a drug composed wholly or partly of insulin, unless (1) it is from a batch with respect to which a certificate or release has been issued pursuant to section 76 of this title, and (2) such certificate or release is in effect with respect to such drug.

(l) Other drugs not properly certified: If it is, or purports to be, or is represented as a drug composed wholly or partly of any kind of penicillin, streptomycin, chlortetracycline, chloramphenicol, or bacitracin, or any derivative thereof, unless (1) it is from a batch with respect to which a certificate or release has been issued pursuant to section 77 of this title, and (2) such certificate or release is in effect with respect to such drug. This subsection does not apply to any drug or class of drugs exempted by regulations promulgated under section 77 (c) or (d) of this title.

§ 73. Exemptions

(a) The Secretary shall promulgate regulations exempting from any labeling or packing requirement of this chapter drugs and devices which are, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such drugs and devices are not adulterated or misbranded under the provisions of this chapter upon removal from such processing, labeling, or repacking establishment.

(b) (1) A drug intended for use by man which—

(A) is a habit-forming drug to which section 72 (d) of this title applies; or

(B) because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use, is not safe for use except under the supervision of a practitioner licensed by law to administer such drug; or

(C) is limited by an effective application under section 75 of this title to use under the professional supervision of a practitioner licensed by law to administer such drug.

shall be dispensed only (i) upon a written prescription of a practitioner licensed by law to administer such drug, or (ii) upon an oral prescription of such practitioner which is reduced promptly to writing and filed by the pharmacist, or (iii) by refilling any such written or oral prescription if such refilling is authorized by the prescribed either in the original prescription or by oral order which is reduced promptly to writing and filed by the pharmacist. The act of dispensing a drug contrary to the provisions of this paragraph is deemed to be an act which results in the drug being misbranded while held for sale.

(2) A drug dispensed by filling or refilling a written or oral prescription of a practitioner licensed by law to administer such drug is exempt from the requirements of section 72 of this title, except paragraphs (a), (i) (2) and (3), (k) and (l) of such section, and the packaging requirements of paragraphs (g) and (h) of such section, if the drug bears a label containing the name and address of the dispenser, the serial number and date of the prescription or of its filling, the name of the prescriber, and, if stated in the prescription, the name of the patient, and the directions for use and cautionary statements, if any, contained in such prescription. This exemption does not apply to any drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail, or to a drug dispensed in violation of paragraph (1) of this subsection.

(3) The Secretary may by regulation remove drugs subject to sections 72 (d) and 75 of this title from the requirements of paragraph (1) of this subsection when such requirements are not necessary for the protection of the public health.

(4) A drug which is subject to paragraph (1) of this subsection is deemed to be misbranded if at any time prior to dispensing its label fails to bear the statement "Caution: Federal law prohibits dispensing without prescription." A drug to which paragraph (1) of this subsection does not apply is deemed to be misbranded if at any time prior to dispensing its label bears the caution statement quoted in the first sentence of this paragraph.

(5) Nothing in this subsection shall be construed to relieve any person from any requirement prescribed by or under authority of law with respect to drugs now included or which may hereafter be included within the classifications stated in section 3220 of the Internal Revenue Code, or to marihuana as defined in section 3238 (b) of the Internal Revenue Code.

§ 74. Certification of coal-tar colors for drugs

The Secretary shall promulgate regulations providing for the listing of coal-tar colors which are harmless and suitable for use in drugs for purposes of coloring only and for the certification of batches of such colors, with or without harmless diluents.

§ 75. New drugs

(a) Necessity of effective application: No person shall introduce or deliver for introduction into interstate commerce any new drug, unless an application filed pursuant to subsection (b) of this section is effective with respect to such drug.

(b) Filing application: Any person may file with the Secretary an application with respect to any drug subject to subsection (a) of this section, which application shall include (1) full reports of investigations which have been made to show whether such drug is safe for use; (2) a full list of the articles used as components of such drug; (3) a full statement of the composition of such drug; (4) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such drug; (5) samples of such drug and of the articles used as components thereof as the Secretary may require; and (6) specimens of the labeling proposed to be used for such drug.

(c) Effective date of application: An application provided for in subsection (b) of this section shall become effective on the sixtieth day after the filing thereof unless prior to such day the Secretary by written notice to the applicant postpones the effective date of the application to such time, not more than 180 days after the filing thereof, as he deems necessary to enable him to study and investigate the application.

(d) Grounds for refusing application to become effective: Prior to the effective date of the application, the Secretary shall issue an order refusing to permit the application to become effective if he finds, after due notice to the applicant and giving him an opportunity for a hearing, that (1) the investigations reported pursuant to subsection (b) of this section do not include adequate tests by all methods reasonably applicable to show whether such drug is safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof; (2) the results of such tests show that such drug is unsafe for use under such conditions or do not show that such drug is safe for use under such conditions; (3) the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such drug are inadequate to preserve its identity, strength, quality, and purity; or (4) upon the basis of the information submitted to

him as part of the application, or other information before him with respect to such drug, he has insufficient information to determine whether such drug is safe for use under such conditions.

(e) Suspension of effectiveness of application: The Secretary shall order the suspension of the effectiveness of an application with respect to any drug after due notice and opportunity for hearing to the applicant, if he finds (1) that clinical experience, tests by new methods, or tests by methods not deemed reasonably applicable when such application became effective show that such drug is unsafe for use under the conditions of use upon the basis of which the application became effective, or (2) that the application contains any untrue statement of a material fact. The order shall state the findings upon which it is based.

(f) Revocation of order refusing effectiveness: When the Secretary finds that the facts so require he shall revoke an order refusing to permit an application with respect to a drug to become effective.

(g) Service of orders: Orders of the Secretary issued under this section shall be served (1) in person by any officer or employee of the Department designated by the Secretary or (2) by registered mail addressed to the applicant or respondent at his last-known address in the records of the Secretary.

(h) Appeal from order: The applicant may appeal from an order of the Secretary refusing to permit the application to become effective, or suspending the effectiveness of the application by filing in the United States district court within any district wherein such applicant resides or has his principal place of business, or in the United States District Court for the District of Columbia, within 60 days after the entry of the order, a written petition praying that the order of the Secretary be set aside. The applicant shall serve a copy of the petition forthwith upon the Secretary, or upon any officer designated by him for that purpose, and thereupon the Secretary shall certify and file in the court a transcript of the record upon which the order complained of was entered. Upon the filing of such transcript the court shall have exclusive jurisdiction to affirm or set aside such order. The court shall not consider an objection to the order of the Secretary unless such objection was urged before the Secretary or unless there were reasonable grounds for failure so to do. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive. If any person applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence to be taken before the Secretary and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court seems proper. The Secretary may modify his findings as to the facts by reason of the additional evidence so taken, and he shall file with the court such modified findings which, if supported by substantial evidence, shall be conclusive, and his recommendations, if any, for the setting aside of the original order. The judgment and decree of the court affirming or setting aside any such order of the Secretary shall be final, subject to review as provided in sections 1254 and 1291-1294 of title 28. The commencement of proceedings under this subsection shall not, unless specifically ordered by the court to the contrary, operate as a stay of the Secretary's order.

(i) Exemption of drugs for research: The Secretary shall promulgate regulations for exempting from the operation of this section drugs intended solely for investigational use by experts qualified by scientific training

and experience to investigate the safety of drugs.

§ 76. Certification of drugs containing insulin

(a) The Secretary, pursuant to regulations promulgated by the Secretary, shall provide for the certification of batches of drugs composed wholly or partly of insulin. A batch of any such drug shall be certified only if such drug has such characteristics of identity and such batch has such characteristics of strength, quality, and purity, as the Secretary prescribes in such regulations as necessary adequately to insure safety and efficacy of use. Prior to the effective date of such regulations the Secretary, in lieu of certification, shall issue a release for any batch, which, in his judgment, may be released without risk as to the safety and efficacy of its use. Such release shall prescribe the date of its expiration and other conditions under which it shall cease to be effective as to such batch and as to portions thereof.

(b) Regulations providing for such certifications shall contain such provisions as are necessary to carry out the purposes of this section, including provisions prescribing (1) standards of identity and of strength, quality, and purity; (2) tests and methods of assay to determine compliance with such standards; (3) effective periods for certificates, and other conditions under which they shall cease to be effective as to certified batches and as to portions thereof; (4) administration and procedure; and (5) such fees, specified in such regulations, as are necessary to provide, equip, and maintain an adequate certification service. Such regulations shall prescribe no standard of identity or of strength, quality, or purity for any drug different from the standard of identity, strength, quality, or purity set forth for such drug in an official compendium.

(c) Such regulations, insofar as they prescribe tests or methods of assay to determine strength, quality, or purity of any drug, different from the tests or methods of assay set forth for such drug in an official compendium, shall be prescribed, after notice and opportunity for revision of such compendium, in the manner provided in the second sentence of section 71 (b) of this title. The provisions of subsections (e), (f), and (g) of section 131 of this title shall be applicable to such portion of any regulation as prescribes any such different test or method, but shall not be applicable to any other portion of any such regulation.

§ 77. Certification of drugs containing certain antibiotics

(a) Regulations for certification: The Secretary, pursuant to regulations promulgated by the Secretary, shall provide for the certification of batches of drugs composed wholly or partly of any kind of penicillin, streptomycin, chlortetracycline, chloramphenicol, or bacitracin, or any derivative of any of them. A batch of any such drug shall be certified only if such drug has such characteristics of identity and such batch has such characteristics of strength, quality, and purity, as the Secretary prescribes in such regulations as necessary adequately to insure safety and efficacy of use. Prior to the effective date of such regulations the Secretary, in lieu of certification, shall issue a release for any batch which, in the Secretary's judgment, may be released without risk as to the safety and efficacy of its use. Such release shall prescribe the date of its expiration and other conditions under which it shall cease to be effective as to such batch and as to portions thereof.

(b) Provisions of regulations: Regulations providing for such certifications shall contain such provisions as are necessary to carry out the purposes of this section, including provisions prescribing (1) standards of iden-

tity and of strength, quality, and purity; (2) tests and methods of assay to determine compliance with such standards; (3) effective periods for certificates, and other conditions under which they shall cease to be effective as to certified batches and as to portions thereof; (4) administration and procedure; and (5) such fees, specified in such regulations, as are necessary to provide, equip, and maintain an adequate certification service. Such regulations shall prescribe only such tests and methods of assay as will provide for certification or rejection within the shortest time consistent with the purposes of this section.

(c) **Exemption of drugs not involving safety and efficacy of use:** Whenever in the judgment of the Secretary, the requirements of this section and of section 72 (1) of this title with respect to any drug or class of drugs are not necessary to insure safety and efficacy of use, the Secretary shall promulgate regulations exempting such drug or class of drugs from such requirements.

(d) **Other exemptions:** The Secretary shall promulgate regulations exempting from any requirement of this section and of section 72 (1) of this title, (1) drugs which are to be stored, processed, labeled, or repacked at establishments other than those where manufactured, on condition that such drugs comply with all such requirements upon removal from such establishments; (2) drugs which conform to applicable standards of identity, strength, quality, and purity prescribed by these regulations and are intended for use in manufacturing other drugs; and (3) drugs which are intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety and efficacy of drugs.

(e) **Application of other sections; determination of compliance:** No drug which is subject to this section shall be subject to section 75 of this title. Compliance of any drug subject to this section or to section 72 (1) of this title with sections 71 (b) and 72 (g) of this title shall be determined by the application of the standards of strength, quality, and purity, the tests and methods of assay, and the requirements of packaging and labeling, respectively, prescribed by regulations promulgated under this section.

(f) **Procedure for issuance, amendment, or repeal of regulations:** Any interested person may file with the Secretary a petition proposing the issuance, amendment, or repeal of any regulation contemplated by this section. The petition shall set forth the proposal in general terms and shall state reasonable grounds therefor. The Secretary shall give public notice of the proposal and an opportunity for all interested persons to present their views thereon, orally or in writing, and as soon as practicable thereafter shall make public the Secretary's action upon such proposal. At any time prior to the thirtieth day after such action is made public any interested person may file objections to such action, specifying with particularity the changes desired, stating reasonable grounds therefor, and requesting a public hearing upon such objections. The Secretary shall thereupon, after due notice, hold such public hearing. As soon as practicable, after completion of the hearing, the Secretary shall by order make public the Secretary's action on such objections. The order shall be based only on substantial evidence of record at the hearing and shall include detailed findings of fact on which it is based. The order shall be subject to the provisions of section 131 (f) and (g) of this title.

SUBCHAPTER IV—COSMETICS

§ 91. Adulterated cosmetics

A cosmetic is deemed to be adulterated—

(a) If it bears or contains any poisonous or deleterious substance which may render it injurious to users under the conditions of use prescribed in the labeling thereof, or

under such conditions of use as are customary or usual. This provision does not apply to coal-tar hair dye, the label of which bears the following legend conspicuously displayed thereon: "Caution—This product contains ingredients which may cause skin irritation on certain individuals and a preliminary test according to accompanying directions should first be made. This product must not be used for dyeing the eyelashes or eyebrows; to do so may cause blindness.", and the labeling of which bears adequate directions for such preliminary testing. For the purposes of this paragraph and paragraph (e) of this section the term "hair dye" does not include eyelash dyes or eyebrow dyes.

(b) It consists in whole or in part of any filthy, putrid, or decomposed substance.

(c) If it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth or whereby it may have been rendered injurious to health.

(d) If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

(e) If it is not a hair dye and it bears or contains a coal-tar color other than one from a batch that has been certified in accordance with regulations as provided by section 94 of this title.

§ 92. Misbranded cosmetics

A cosmetic is deemed to be misbranded—

(a) If its labeling is false or misleading in any particular.

(b) If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count. Under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary.

(c) If any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(d) If its container is so made, formed, or filled as to be misleading.

§ 93. Exemptions

The Secretary shall promulgate regulations exempting from any labeling requirement of this chapter cosmetics which are, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such cosmetics are not adulterated or misbranded under the provisions of this chapter upon removal from such processing, labeling, or repacking establishment.

§ 94. Certification of coal-tar colors for cosmetics

The Secretary shall promulgate regulations providing for the listing of coal-tar colors which are harmless and suitable for use in cosmetics and for the certification of batches of such colors, with or without harmless diluents.

SUBCHAPTER V—IMPORTS AND EXPORTS

§ 111. Examination and refusal of imports

(a) The Secretary of the Treasury shall deliver to the Secretary of Health, Education, and Welfare, upon the latter Secretary's request, samples of food, drugs, devices, and cosmetics which are being imported or

offered for import into the United States, giving notice thereof to the owner or consignee, who may appear before the Secretary of Health, Education, and Welfare and have the right to introduce testimony. If it appears from the examination of such samples or otherwise that the article (1) has been manufactured, processed, or packed under insanitary conditions, or (2) is forbidden or restricted in sale in the country in which it was produced or from which it was exported, or (3) is adulterated, misbranded, or in violation of section 75 of this title, the Secretary of the Treasury shall refuse to admit the article, except as provided in subsection (b) of this section. He shall cause the destruction of any such article refused admission unless it is exported, under regulations prescribed by him, within 90 days of the date of notice of such refusal or within such additional time permitted pursuant to such regulations. This subsection does not prohibit the admission of narcotic drugs the importation of which is permitted under section 763 of this title.

(b) Pending decision as to the admission of an article being imported or offered for import, the Secretary of the Treasury may authorize delivery of such article to the owner or consignee upon the execution by him of a good and sufficient bond providing for the payment of such liquidated damages in the event of default as may be required pursuant to regulations of the Secretary of the Treasury. If it appears to the Secretary of Health, Education, and Welfare that an article included within the provisions of clause (3) of subsection (a) of this section can, by relabeling or other action, be brought into compliance with this chapter or rendered other than a food, drug, device, or cosmetic, the Secretary of the Treasury may defer final determination as to admission of such article and, upon filing of timely written application by the owner or consignee and the execution by him of a bond as provided in the preceding provisions of this subsection, the Secretary of Health, Education, and Welfare may, in accordance with regulations, authorize the applicant to perform such relabeling or other action specified in such authorization (including destruction or export of rejected articles or portions thereof, as may be specified in the latter Secretary's authorization). All such relabeling or other action pursuant to such authorization shall in accordance with regulations be under the supervision of an officer or employee of the Department of Health, Education, and Welfare designated by the Secretary of that Department, or an officer or employee of the Department of the Treasury designated by the Secretary of the Treasury.

(c) The owner or consignee shall pay all expenses, including travel, per diem or subsistence, and salaries of officers or employees of the United States, determined in accordance with regulations, in connection with the destruction provided for in subsection (a) of this section and the supervision of the relabeling or other action authorized under subsection (b) of this section, and all expenses in connection with the storage, cartage, or labor with respect to any article refused admission under subsection (a) of this section. In default of payment, expenses specified in this subsection shall constitute a lien against any future importations made by such owner or consignee.

§ 112. Exports adulterated or misbranded

A food, drug, device, or cosmetic intended for export is not deemed to be adulterated or misbranded under this chapter if it (1) accords to the specifications of the foreign purchaser, (2) is not in conflict with the laws of the country to which it is intended for export, and (3) is labeled on the outside of the shipping package to show that it is intended for export. Such article sold or offered for sale in domestic commerce is not

exempt from any of the provisions of this chapter.

§ 113. Suspension of adulterated imports

Whenever the President is satisfied that there is good reason to believe that any importation is being made, or is about to be made, into the United States, from any foreign country, of any article used for human food or drink that is adulterated to an extent dangerous to the health or welfare of the people of the United States, or any of them, he may issue his proclamation suspending the importation of such articles from such country for such period of time as he believes necessary to prevent such importation. During such period no person shall import any of such articles into the United States from the countries designated in the proclamation of the President.

SUBCHAPTER VI—ADMINISTRATIVE PROVISIONS

§ 131. Regulations; hearings; judicial review

(a) Regulations authorized: The Secretary may promulgate regulations for the efficient enforcement of this chapter, except as otherwise provided in this section.

(b) Imports and exports: The Secretary of the Treasury and the Secretary of Health, Education, and Welfare shall jointly prescribe regulations for the efficient enforcement of the provisions of sections 111 and 112 of this title, except as otherwise provided therein, in such manner and to take effect at such time, after due notice, as the Secretary of Health, Education, and Welfare determines.

(c) Conduct of hearings: The Secretary or such officer or employe as he designates shall conduct the hearings authorized or required by this chapter.

(d) Standards of identity in other laws: The definitions and standards of identity promulgated in accordance with the provisions of this chapter shall be effective for the purposes of the enforcement of this chapter, notwithstanding such definitions and standards as may be contained in other laws of the United States and regulations promulgated thereunder.

(e) Hearings on regulations: The Secretary, on his own initiative or upon an application of any interested industry or substantial portion thereof stating reasonable grounds therefor, shall hold a public hearing upon a proposal to issue, amend, or repeal any regulation contemplated by sections 53 (j), 55 (a), 55 (b), 56 (a), 71 (b), 72 (d), 72 (h), 74, and 94 of this title.

The Secretary shall give appropriate notice of the hearing, setting forth the proposal in general terms and specifying the time and place for the hearing not less than 30 days after the date of the notice, except that the public hearing on regulations under section 56 (a) of this title may be held within a reasonable time, to be fixed by the Secretary, after notice thereof. At the hearing any interested person may be heard in person or by his representative. As soon as practicable after completion of the hearing, the Secretary shall by order make public his action in issuing, amending, or repealing the regulation or determining not to take such action. Such order shall be based only on substantial evidence of record at the hearing and shall include detailed findings of fact on which it is based. No such order shall take effect prior to the 90th day after it is issued, except that if the Secretary finds that emergency conditions exist necessitating an earlier effective date, then the Secretary shall specify in the order the Secretary's findings as to such conditions and the order shall take effect at such earlier date as the Secretary specifies.

(f) Judicial review: (1) In a case of actual controversy as to the validity of any order under subsection (e) of this section, any person who will be adversely affected by such order if placed in effect may at any time prior to the 90th day after such order is

issued file a petition with the United States Court of Appeals for the circuit wherein such person resides or has his principal place of business, for a judicial review of such order. The summons and petition may be served at any place in the United States. The Secretary, promptly upon service of the summons and petition, shall certify and file in the court the transcript of the proceedings and the record on which the Secretary based the order.

(2) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence, and evidence in rebuttal thereof, to be taken before the Secretary, and to be adduced upon the hearing, in such manner and upon such terms and conditions as the court deems proper. The Secretary may modify the Secretary's findings as to the facts, or make new findings, by reason of the additional evidence so taken, and file such modified or new findings, and the Secretary's recommendation, if any, for the modification or setting aside of the Secretary's original order, with the return of such additional evidence.

(3) The court may affirm the order, or set it aside in whole or in part, temporarily or permanently. If the order of the Secretary refuses to issue, amend, or repeal a regulation and such order is not in accordance with law the court shall by its judgment order the Secretary to take action, with respect to such regulation, in accordance with law. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive.

(4) The judgment of the court affirming or setting aside, in whole or in part, any such order of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(5) Any action instituted under this subsection shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

(6) The remedies provided for in this subsection shall be in addition to, and not in substitution for, any other remedies provided by law.

(g) Copies of records of hearings: The Secretary shall furnish a certified copy of the transcript of the record and proceedings under subsection (e) of this section to any interested party at his request, on payment of the costs thereof. Such copy shall be admissible in any criminal, libel for condemnation, exclusion of imports, or other proceeding arising under or in respect to this chapter, irrespective of whether proceedings with respect to the order have previously been instituted or become final under subsection (f) of this section.

§ 132. Examinations and investigations

(a) The Secretary may conduct examinations and investigations for the purposes of this chapter through officers and employees of the Department or through any health, food, or drug officer or employee of any State, Territory, or political subdivision thereof, duly commissioned by the Secretary as an officer of the Department. In the case of food packed in a Territory the Secretary shall attempt to make inspection of such food at the first point of entry within the United States when, in his opinion and with due regard to the enforcement of all the provisions of this chapter, the facilities at his disposal will permit of such inspection. For the purposes of this subsection the term "United States" means the States and the District of Columbia.

(b) Where a sample of a food, drug, or cosmetic is collected for analysis under this

chapter, the Secretary shall, upon request provide a part of such official sample for examination or analysis by any person named on the label of the article, or the owner thereof, or his attorney or agent; except that the Secretary may, by regulations, make such reasonable exceptions from, and impose such reasonable terms and conditions relating to, the operation of this subsection as he finds necessary for the proper administration of the provisions of this chapter.

(c) For purposes of enforcement of this chapter, records of any department or independent establishment in the executive branch of the Government shall be open to inspection by any official of the Department of Health, Education, and Welfare authorized by the Secretary to make such inspection.

§ 133. Records of interstate shipment

For the purpose of enforcing the provisions of this chapter, carriers engaged in interstate commerce, and persons receiving food, drugs, devices, or cosmetics in interstate commerce or holding such articles so received, shall, upon the request of an officer or employee duly designated by the Secretary, permit him, at reasonable times, to have access to and to copy all records showing the movement in interstate commerce of any food, drug, device, or cosmetic, or the holding thereof during or after such movement, and the quantity, shipper, and consignee thereof. It shall be unlawful for any such carrier or person to fail to permit such access to and copying of any such record so requested when such request is accompanied by a statement in writing specifying the nature or kind of food, drug, device, or cosmetic to which such request relates. Evidence obtained under this section shall not be used in a criminal prosecution of the person from whom it is obtained.

Carriers shall not be subject to the other provisions of this chapter by reason of their receipt, carriage, holding, or delivery of food, drugs, devices, or cosmetics in the usual course of business as carriers.

§ 134. Factory inspection; notice; reports; receipts for samples; copies of analyses

(a) For purposes of enforcement of this chapter, officers or employees duly designated by the Secretary, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, may (1) enter, at reasonable times, any factory, warehouse, or establishment in which food, drugs, devices, or cosmetics are manufactured, processed, packed, or held, for introduction into interstate commerce or are held after such introduction, or enter any vehicle being used to transport or hold such food, drugs, devices, or cosmetics in interstate commerce; and (2) inspect, at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, establishment, or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling therein. A separate notice shall be given for each such inspection, but a notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness.

(b) Upon completion of any such inspection of a factory, warehouse, or other establishment, and prior to leaving the premises, the officer or employee making the inspection shall give to the owner, operator, or agent in charge a report in writing setting forth any conditions or practices observed by him which, in his judgment, indicate that any food, drug, device, or cosmetic in such establishment (1) consists in whole or in part of any filthy, putrid, or decomposed substance, or (2) has been prepared, packed, or held under insanitary conditions whereby it

may have become contaminated with filth, or whereby it may have been rendered injurious to health. A copy of such report shall be sent promptly to the Secretary.

(c) If the officer or employee making any such inspection of a factory, warehouse, or other establishment has obtained any sample in the course of the inspection, upon completion of the inspection and prior to leaving the premises he shall give to the owner, operator, or agent in charge a receipt describing the samples obtained.

(d) Whenever in the course of any such inspection of a factory or other establishment where food is manufactured, processed, or packed, the officer or employee making the inspection obtains a sample of any such food, and an analysis is made of such sample for the purpose of ascertaining whether such food consists in whole or in part of any filthy, putrid, or decomposed substance, or is otherwise unfit for food, a copy of the results of such analysis shall be furnished promptly to the owner, operator, or agent in charge.

§ 135. Publicity

(a) The Secretary shall cause to be published from time to time reports summarizing all judgments, decrees, and court orders rendered under this chapter, including the nature of the charge and the disposition thereof.

(b) The Secretary may also cause to be disseminated information regarding food, drugs, devices, or cosmetics in situations involving, in the Secretary's opinion, imminent danger to health or gross deception of the consumer. Nothing in this section shall be construed to prohibit the Secretary from collecting, reporting, and illustrating the results of the investigations of the Department.

§ 136. Cost of certification of coal-tar colors

The admitting to listing and certification of coal-tar colors, in accordance with regulations prescribed under this chapter, shall be performed only upon payment of fees specified in such regulations, as may be necessary to provide, maintain, and equip an adequate service for such purposes.

§ 137. Revision of Pharmacopeia; development of analyses and tests

The Secretary, in carrying into effect the provisions of this chapter, may cooperate with associations and scientific societies in the revision of the United States Pharmacopeia and in the development of methods of analysis and mechanical and physical tests necessary to carry out the work of the Food and Drug Administration.

SUBCHAPTER VII—ENFORCEMENT AND PENALTIES

§ 151. Prohibited acts

The following acts and the causing thereof are prohibited:

(a) The introduction or delivery for introduction into interstate commerce of any food, drug, device, or cosmetic that is adulterated or misbranded.

(b) The adulteration or misbranding of any food, drug, device, or cosmetic in interstate commerce.

(c) The receipt in interstate commerce of any food, drug, device, or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise.

(d) The introduction or delivery for introduction into interstate commerce of any article in violation of section 56 or 75 of this title.

(e) The refusal to permit access to or copying of any record as required by section 133 of this title.

(f) The refusal to permit entry or inspection as authorized by section 134 of this title.

(g) The manufacture within any Terri-

tory of any food, drug, device, or cosmetic that is adulterated or misbranded.

(h) The giving of a guaranty or undertaking referred to in section 152 (c) (2) of this title which is false, except by a person who relied upon a guaranty or undertaking to the same effect signed by, and containing the name and address of, the person residing in the United States from whom he received in good faith the food, drug, device, or cosmetic; or the giving of a guaranty or undertaking referred to in section 152 (c) (3) of this title which guaranty or undertaking is false.

(i) Forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp, tag, label, or other identification device authorized or required by regulations promulgated under the provisions of sections 55 (b), 56, 57, 74, 76, 77, or 94 of this title.

(j) The using by any person to his own advantage, or revealing, other than to the Secretary or officers or employees of the Department, or to the courts when relevant in any judicial proceeding under this chapter, any information acquired under authority of sections 56, 75, 76, 77, or 134 of this title concerning any method or process which as a trade secret is entitled to protection.

(k) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to, a food, drug, device, or cosmetic, if such act is done while such article is held for sale (whether or not the first sale) after shipment in interstate commerce and results in such article being adulterated or misbranded.

(l) The using, on the labeling of any drug or in any advertising relating to such drug, of any representation or suggestion that an application with respect to such drug is effective under section 75 of this title, or that such drug complies with the provisions of such section.

(m) The sale or offering for sale of colored oleomargarine or colored margarine, or the possession or serving of colored oleomargarine or colored margarine in violation of subsection (b) or (c) of section 59 of this title.

(n) The using, in labeling, advertising, or other sales promotion, of any reference to any report or analysis furnished in compliance with section 134 of this title.

§ 152. Penalties; exemptions

(a) Any person who violates any of the provisions of section 151 of this title shall be imprisoned not more than 1 year or fined not more than \$1,000, or both. Any person who commits such a violation after one conviction under this section has become final shall be imprisoned not more than 3 years or fined not more than \$10,000, or both.

(b) Notwithstanding the provisions of subsection (a) of this section, any person who violates any of the provisions of section 151 of this title, with intent to defraud or mislead, shall be imprisoned not more than 3 years or fined not more than \$10,000, or both.

(c) No person shall be subject to the penalties of subsection (a) of this section—

(1) for having received in interstate commerce any article and delivered it or proffered delivery of it, if such delivery or proffer was made in good faith, unless he refuses to furnish on request of an officer or employee duly designated by the Secretary the name and address of the person from whom he purchased or received such article and copies of all documents, if any, pertaining to the delivery of the article to him; or

(2) for having violated section 151 (a) or 151 (d) of this title, if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person residing in the United States from whom he

received the article in good faith, to the effect, in case of an alleged violation of section 151 (a) of this title, that such article is not adulterated or misbranded, within the meaning of this chapter, designating this chapter, or to the effect, in case of an alleged violation of section 151 (d) of this title, that such article is not an article which may not, under the provisions of section 56 or 75 of this title, be introduced into interstate commerce; or

(3) for having violated section 151 (a) of this title, where the violation exists because the article is adulterated by reason of containing a coal-tar color not from a batch certified in accordance with the Secretary's regulations, if such person establishes a guaranty or undertaking signed by, and containing the name and address of, the manufacturer of the coal-tar color, to the effect that such color was from a batch certified in accordance with the applicable regulations promulgated by the Secretary under this chapter; or

(4) for having violated section 151 (b), 151 (c), or 151 (k) of this title by failure to comply with section 72 (f) of this title in respect to an article received in interstate commerce to which neither section 73 (a) nor section 73 (b) (1) is applicable, if the delivery or proffered delivery was made in good faith and the labeling at the time thereof contained the same directions for use and warning statements as were contained in the labeling at the time of such receipt of such article.

§ 153. Injunctions

(a) The United States district courts and the United States courts of the Territories shall have jurisdiction, for cause shown, and subject to the provisions of rule 65 (a) (b) of the Federal Rules of Civil Procedure, to restrain violations of section 151 of this title, except paragraphs (5), (6), (8), (9), and (10) thereof.

(b) Any violation of an injunction or restraining order issued under this section, which also constitutes a violation of this chapter, shall be tried by the court, or, upon demand of the accused, by a jury, in accordance with the practice and procedure applicable in the case of proceedings subject to the provisions of section 402 of title 18.

§ 154. Libel for condemnation

(a) Grounds and jurisdiction: Any article of food, drug, device, or cosmetic that is adulterated or misbranded when introduced into or while in interstate commerce or while held for sale (whether or not the first sale) after shipment in interstate commerce, or which may not, under the provisions of section 56 or 75 of this title, be introduced into interstate commerce, shall be liable to be proceeded against while in interstate commerce, or at any time thereafter, on libel of information and condemned in any district court of the United States within the jurisdiction of which the article is found.

(b) Procedure: The article shall be liable to seizure by process pursuant to the libel, and the procedure in cases under this section shall conform, as nearly as may be, to the procedure in admiralty; except that on demand of either party any issue of fact joined in any such case shall be tried by jury.

(c) Libels for misbranding limited; change of venue: No libel for condemnation for any alleged misbranding shall be instituted under this chapter, if there is pending in any court a libel for condemnation proceeding under this chapter based upon the same alleged misbranding, and not more than one such proceeding shall be instituted if no such proceeding is so pending, except that such limitations shall not apply—

(1) when such misbranding has been the basis of a prior judgment in favor of the United States, in a criminal, injunction, or

libel for condemnation proceeding under this chapter, or

(2) when the Secretary has probable cause to believe from facts found, without hearing, by him or any officer or employee of the Department that the misbranded article is dangerous to health, or that the labeling of the misbranded article is fraudulent, or would be in a material respect misleading to the injury or damage of the purchaser or consumer.

In any case where the number of libel for condemnation proceedings is limited as above provided the proceeding pending or instituted shall, on application of the claimant, seasonably made, be removed for trial to any district agreed upon by stipulation between the parties, or, in case of failure to so stipulate within a reasonable time, the claimant may apply to the court of the district in which the seizure has been made, and such court, after giving the United States attorney for such district reasonable notice and opportunity to be heard, shall by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the claimant's principal place of business, to which the case shall be removed for trial.

(d) Consolidation of multiple proceedings.—When libel for condemnation proceedings under this section, involving the same claimant and the same issues of adulteration or misbranding, are pending in two or more jurisdictions, such pending proceedings, upon application of the claimant seasonably made to the court of one such jurisdiction, shall be consolidated for trial by order of such court, and tried in (1) any district selected by the claimant where one of such proceedings is pending; or (2) a district agreed upon by stipulation between the parties. If no order for consolidation is so made within a reasonable time, the claimant may apply to the court of one such jurisdiction, and such court, after giving the United States attorney for such district reasonable notice and opportunity to be heard, shall by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the claimant's principal place of business, in which all such pending proceedings shall be consolidated for trial and tried. Such order of consolidation shall not apply so as to require the removal of any case the date for trial of which has been fixed. The court granting such order shall give prompt notification thereof to the other courts having jurisdiction of the cases covered thereby.

(e) Removal for trial: In the case of removal for trial of any case as provided by subsection (c) or (d) of this section—

(1) The clerk of the court from which removal is made shall promptly transmit to the court in which the case is to be tried all records in the case necessary in order that such court may exercise jurisdiction.

(2) The court to which such case is removed shall have the powers and be subject to the duties, for purposes of the case, which the court from which removal is made would have, or to which such court would be subject, if such case is not removed.

(f) Samples of seized goods: The court at any time after seizure up to a reasonable time before trial shall by order allow any party to a condemnation proceeding, his attorney or agent, to obtain a representative sample of the article seized and a true copy of the analysis, if any, on which the proceeding is based and the identifying marks or numbers, if any, of the packages from which the samples analyzed were obtained.

(g) Disposition after condemnation: Any food, drug, device, or cosmetic condemned under this section shall, after entry of the decree, be disposed of by destruction or sale as the court may direct in accordance with the provisions of this section. If sold, the proceeds thereof, less the legal costs and charges, shall be paid into the Treasury of

the United States. Such article shall not be sold under such decree contrary to the provisions of this chapter or the laws of the jurisdiction in which sold. After entry of the decree and upon the payment of the costs of such proceedings and the execution of a good and sufficient bond conditioned that such article shall not be sold or disposed of contrary to the provisions of this chapter or the laws of any State or Territory in which sold, the court may by order direct that such article be delivered to the owner thereof to be destroyed or brought into compliance with the provisions of this chapter under the supervision of an officer or employee duly designated by the Secretary, and the expenses of such supervision shall be paid by the person obtaining release of the article under bond. Any article condemned by reason of its being an article which may not, under section 56 or 75 of this title, be introduced into interstate commerce, shall be disposed of by destruction.

(h) Costs: When a decree of condemnation is entered against the article, court costs and fees, and storage and other proper expenses, shall be awarded against the person, if any, intervening as claimant of the article.

§ 155. Hearing before violation reported

Before any violation of this chapter is reported by the Secretary to any United States attorney for institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his views, either orally or in writing, with regard to such contemplated proceeding.

§ 156. Report of minor violations

Nothing in this chapter shall be construed as requiring the Secretary to report for prosecution, or for the institution of libel or injunction proceedings, minor violations of this chapter whenever the Secretary believes that the public interest will be adequately served by a suitable written notice or warning.

§ 157. Proceedings in name of United States; subpoenas

All proceedings for the enforcement, or to restrain violations, of this chapter shall be by and in the name of the United States. Subpoenas for witnesses who are required to attend a court of the United States, in any district, may run into any other district in any such proceeding.

Chapter 5—Milk and cream

Subchapter I—Importation of Milk and Cream

Sec.

- 201. Definitions.
- 202. Permits for importation.
- 203. Unfitness for importation.
- 204. Inspection, issue of permits; regulations.
- 205. Penalties.
- 206. State powers concerning milk and cream.
- 207. Short title.

Subchapter II—Filled Milk

Sec.

- 221. Definitions.
- 222. Filled milk; congressional finding concerning.
- 223. Regulations.
- 224. Penalties.
- 225. Short title.

SUBCHAPTER I—IMPORTATION OF MILK AND CREAM

§ 201. Definitions

As used in this subchapter—

(a) "Person" means an individual, partnership, corporation, or association.

(b) "United States" means the continental United States.

§ 202. Permits for importation

No person shall import milk and cream into the United States unless the person by whom it is shipped or transported holds a

valid permit from the Secretary of Health, Education, and Welfare.

§ 203. Unfitness for importation

Milk or cream shall be considered unfit for importation—

(a) when all cows producing such milk or cream are not healthy and a physical examination of all such cows has not been made within 1 year previous to such milk being offered for importation;

(b) when such milk or cream, if raw, is not produced from cows which have passed a tuberculin test applied by a duly authorized official veterinarian of the United States, or of the country in which such milk or cream is produced, within 1 year previous to the time of the importation, showing that such cows are free from tuberculosis;

(c) when the sanitary conditions of the dairy farm or plant in which it is produced or handled do not score at least 50 points out of 100 points according to the current methods for scoring as provided by the score cards used by the United States Department of Agriculture;

(d) if the number of bacteria per cubic centimeter exceeds in the case of raw milk 300,000, in the case of raw cream 750,000, and in the case of pasteurized milk 100,000, and in the case of pasteurized cream 500,000;

(e) when the temperature of milk or cream at the time of importation exceeds 50 degrees Fahrenheit.

§ 204. Inspection; issue of permits; regulations

(a) The Secretary of Health, Education, and Welfare shall cause such inspections to be made as are necessary to insure that milk and cream are produced and handled in compliance with section 203 of this title. When the Secretary finds that milk or cream is produced and handled so as not to be unfit for importation under clauses (1), (2), and (3) of section 203 of this title, the Secretary shall issue to persons making application therefor permits to ship milk or cream into the United States. In lieu of the inspections to be made by or under the direction of the Secretary, the Secretary may, in the Secretary's discretion, accept a duly certified statement signed by a duly accredited official of an authorized department of any foreign government or of any State of the United States or any municipality thereof that the provisions in clauses (1), (2), and (3) of section 203 of this title have been complied with. Such certificate shall be in the form prescribed by the Secretary.

(b) The Secretary may, in the Secretary's discretion, waive the requirements of paragraph (4) of section 203 of this title when issuing permits to operators of condenseries in which milk or cream is used when sterilization of the milk or cream is a necessary process, except that no milk or cream shall be imported the bacterial count of which per cubic centimeter in any event exceeds 1,200,000. Such requirements shall not be waived unless the farm producing such milk to be imported is within a radius of 15 miles of the condenser in which it is to be processed. If milk or cream imported when the requirements of section 203, paragraph (4), of this title, have been so waived, is sold, used, or disposed of in its raw state or otherwise than as condensed milk by any person, the permit shall be revoked and the importer shall be subject to fine, imprisonment, or other penalty prescribed by this subchapter.

(c) The Secretary shall waive the requirements of paragraphs (2) and (5) of section 203 of this title insofar as the same relate to milk when issuing permits to operators of, or to producers for delivery to, creameries and condensing plants in the United States within 20 miles of the point of production of the milk, and who import no raw milk except for pasteurization or condensing. If milk imported when the requirements of paragraphs (2) and (5) of section 203 of this

title have been so waived is sold, used, or disposed of in its raw state, or otherwise than as pasteurized, condensed, or evaporated milk by any person, the permit shall be revoked and the importer shall be subjected to fine, imprisonment, or other penalty prescribed by this subchapter.

(d) The Secretary shall make and enforce such regulations as the Secretary deems necessary to carry out the purpose of this subchapter for the issuance of permits to import milk and cream, for the handling of milk and cream, for the inspection of milk, cream, cows, barns, and other facilities used in the production and handling of milk and cream, and for the handling, keeping, transporting, and importing of milk and cream. Unless and until the Secretary provides for inspections to ascertain that paragraphs (1), (2), and (3) of section 203 of this title have been complied with, the Secretary shall issue temporary permits to any applicants therefor to ship or transport milk or cream into the United States.

(e) The Secretary may suspend or revoke any permit for the shipment of milk or cream into the United States when the Secretary finds that the holder thereof has failed to comply with the provisions of, or has violated, this subchapter, or any of the regulations made under this subchapter, or that the milk or cream brought or shipped by the holder of such permit into the United States is not produced and handled in conformity with, or that the quality thereof does not conform to, all of the provisions of section 203 of this title.

§ 205. Penalties

(a) No person in the United States shall receive milk or cream imported into the United States unless the importation is in accordance with the provisions of this subchapter.

(b) Any person who knowingly violates any provision of this subchapter shall, in addition to all other penalties prescribed by law, be fined not more than \$2,000 or imprisoned not more than 1 year, or both.

§ 206. State powers concerning milk and cream

Nothing in this subchapter shall be construed to affect the powers of any State, or any political subdivision thereof, to regulate the shipment of milk or cream into, or the handling, sale, or other disposition of milk or cream in, such State or political subdivision after the milk or cream has been lawfully imported under this subchapter.

§ 207. Short title

This subchapter may be cited as the "Federal Import Milk Act."

SUBCHAPTER II—FILLED MILK

§ 221. Definitions

As used in this subchapter—

(a) "Filled milk" means any milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat, so that the resulting product is in imitation or semblance of milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated. This definition does not include any distinctive proprietary food compound not readily mistaken in taste for milk or cream or for evaporated, condensed, or powdered milk, or cream where such compound (1) is prepared and designed for feeding infants and young children and customarily used on the order of a physician; (2) is packed in individual cans containing not more than 16½ ounces and bearing a label in bold type that the content is to be used only for such purpose; and (3) is shipped in interstate or foreign commerce exclusively to physicians,

wholesale and retail druggists, orphan asylums, child-welfare associations, hospitals, and similar institutions and generally disposed of by them.

(b) "Interstate or foreign commerce" means commerce (1) between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; (2) between points within the same State, Territory, or possession, or within the District of Columbia, but through any place outside thereof; or (3) within any Territory or possession, or within the District of Columbia.

(c) "Person" means an individual, partnership, corporation, or association.

§ 222. Filled milk; Congressional finding concerning

Filled milk is an adulterated article of food, injurious to the public health, and its sale constitutes a fraud upon the public.

§ 223. Regulations

The Secretary of Health, Education, and Welfare shall make and enforce such regulations as the Secretary deems necessary to carry out the purposes of this subchapter.

§ 224. Penalties

Any person who manufactures within any Territory or possession, or within the District of Columbia, or ships or delivers for shipment in interstate or foreign commerce, any filled milk, shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both. When construing and enforcing the provisions of this subchapter, the act, omission, or failure of any person acting for or employed by any individual, partnership, corporation, or association, within the scope of his employment or office, shall in every case be deemed the act, omission, or failure, of each individual, partnership, corporation, or association, as well as of such person.

§ 225. Short title

This subchapter may be cited as the "Federal Filled Milk Act."

Chapter 7—Tea importation

Sec.

261. Substandard tea importation; materials for manufacturing.

262. Standards; duplicate samples.

263. Importer's bonds and fees; sampling and examination.

264. Permit for delivery; inferior grades; partial delivery.

265. Examiners.

266. Examination according to usages of trade.

267. Reexamination by Appeals Board; disposition of tea.

268. Procedure for reexamination; assistance of experts.

269. Reimporting rejected tea; forfeitures.

270. Regulations.

271. Short title.

§ 261. Substandard tea importation; materials for manufacturing

(a) No person shall import or bring into the United States any merchandise as tea which is inferior in purity, quality, and fitness for consumption to the standards provided in section 262 of this title.

(b) Nothing in this chapter shall affect or prevent the importation into the United States, under such regulations as the Secretary of Health, Education, and Welfare prescribes, of any merchandise as tea which may be inferior in purity, quality, and fitness for consumption to the standards established by the Secretary, or of any tea waste, tea siftings, or tea sweepings, for the sole purpose of manufacturing theine, caffeine, or other chemical products whereby the identity and character of the original material is entirely destroyed or changed. Importers and manufacturers who import such tea, tea waste, tea siftings, or tea sweepings into the United States shall give suitable

bond, to be subject to the approval only of the collector of customs at the port of entry, conditioned that said imported material shall be used only for the purposes provided in this subsection, under such regulations as may be prescribed by the Secretary.

§ 262. Standards; duplicate samples

The Board of Tea Experts shall prepare and submit standard samples of tea to the Secretary of Health, Education, and Welfare who, upon the Board's recommendation, shall fix and establish uniform standards of purity, quality, and fitness for consumption of all kinds of teas imported into the United States. The Secretary shall procure and deposit in the customhouses of the ports of New York, Chicago, San Francisco, and such other ports as the Secretary may determine, duplicate samples of such standards, and the Secretary shall procure a sufficient number of other duplicate samples to supply the importers and dealers in tea at all ports desiring the same at cost. All teas, or merchandise described as tea, of inferior purity, quality, and fitness for consumption to such standards shall be deemed within the prohibition of section 261 of this title.

§ 263. Importer's bonds and fees; sampling and examination

(a) On making entry at the customhouse of all teas, or merchandise described as tea, imported into the United States, the importer or consignee shall give a bond to the collector of the port that such merchandise shall not be removed from the warehouse until released by the collector, after it shall have been duly examined with reference to its purity, quality, and fitness for consumption. For the purpose of such examination samples of each line in every invoice of tea shall be submitted by the importer or consignee to the examiner, together with the sworn statement of such importer or consignee that such samples represent the true quality of each part of the invoice and accord with the specifications therein contained, or in the discretion of the Secretary, such samples shall be obtained by the examiner and compared by him with the standards established by this chapter. Where entry is made at ports where there is no qualified examiner as provided in section 265 of this title, the consignee or importer shall furnish such samples and sworn statement to the collector or other revenue officer to whom is committed the collection of duties, who shall also draw or cause to be drawn samples of each line in every invoice and shall forward the same to a duly qualified examiner as provided in that section. The bond required by this section shall also be conditioned for the payment of all customhouse charges which may attach to such merchandise prior to its being released or destroyed, as the case may be, under the provisions of this chapter.

(b) The collector shall not examine for importation, or release, any tea, or merchandise described as tea, under this chapter unless the importer or consignee thereof, prior to such examination, has paid for deposit into the Treasury of the United States as miscellaneous receipts, a fee of 3.5 cents for each hundredweight or fraction thereof of such tea and merchandise.

§ 264. Permit for delivery; inferior grades; partial delivery

If, after an examination as provided in section 263 of this title, the tea is found by the examiner to be equal in purity, quality, and fitness for consumption to the standards provided in this chapter, and no reexamination is demanded by the collector as provided in section 267 of this title, a permit shall at once be granted to the importer or consignee declaring the tea free from the control of the customs authorities. If tea, or merchandise described as tea, is found, in the

opinion of the examiner, to be inferior in purity, quality, and fitness for consumption to such standards, the importer or consignee shall be immediately notified, and the tea, or merchandise described as tea, shall not be released by the customhouse, unless on a reexamination called for by the importer or consignee the finding of the examiner is found to be erroneous. If a portion of the invoice is passed by the examiner, a permit shall be granted for that portion and the remainder held for further examination, as provided in said section 267.

§ 265. Examiners

The examination provided for by this chapter shall be made by a duly qualified examiner at a port where standard samples are established. Where the merchandise is entered at ports where there is no qualified examiner, the examination shall be made at that one of said ports which is nearest the port of entry, and for this purpose samples obtained in the manner prescribed by section 263 of this title shall be forwarded to the proper port by the collector or chief officer at the port of entry.

§ 266. Examination according to usages of trade

In all cases of examination or reexamination of teas, or merchandise described as tea, by examiners or the United States Board of Tea Appeals under the provisions of this chapter, the purity, quality, and fitness for consumption of the same shall be tested according to the usages and customs of the tea trade, including the testing of an infusion of the same in boiling water, and, if necessary, chemical analysis.

§ 267. Reexamination by Appeals Board; disposition of tea

(a) If the collector, importer, or consignee protests against the finding of the examiner, the matter in dispute shall be referred for decision to the United States Board of Tea Appeals.

(b) If the Board, after examination, finds the tea in question to be equal in purity, quality, and fitness for consumption to the proper standards, the collector shall issue a permit for its release and delivery to the importer.

(c) If upon final reexamination by the Board the tea is found to be inferior in purity, quality, and fitness for consumption to the said standards, the importer or consignee shall give a bond, with security satisfactory to the collector, to export said tea, or merchandise described as tea, out of the limits of the United States within a period of 6 months after such final reexamination, and if the same has not been exported within the time specified, the collector, at the expiration of that time, shall cause the same to be destroyed.

§ 268. Procedure for reexamination; assistance of experts

In cases of reexamination of teas, or merchandise described as teas, by the United States Board of Tea Appeals in pursuance of the provisions of this chapter, the examiner shall put up and seal samples of the tea, or merchandise described as tea, in dispute, in the presence of the importer or consignee if he so desires, and transmit them to the Board, together with a copy of his findings, setting forth the cause of condemnation and the claim or ground of the protest of the importer relating to the same. Such samples and papers shall be distinguished by an identifying mark.

The decision of the Board shall be in writing, signed by its members, and transmitted with the record and samples to the collector within 3 days after its rendition. The collector shall forthwith furnish the examiner and the importer or consignee with a copy of such decision.

The United States Board of Tea Appeals may obtain the advice, when necessary, of persons skilled in the examination of teas, who shall each receive for his services in any particular case a compensation not exceeding \$5.

§ 269. Reimporting rejected teas; forfeiture

No imported teas which have been rejected by an examiner or by the United States Board of Tea Appeals, and exported under the provisions of this chapter, shall be reimported into the United States. Any such teas so reimported shall be forfeited.

§ 270. Regulations

The Secretary of Health, Education, and Welfare may enforce this chapter by appropriate regulations.

§ 271. Short title

This chapter and sections 3 and 4 of this title may be cited as the "Federal Import Tea Act."

Chapter 9—caustic poisons

Sec.

311. Definitions.

312. Misbranded shipments.

313. Misbranded imports.

314. Removal of labels.

315. Enforcement.

316. Label for condemnation.

317. Penalties.

318. Institution of condemnation and criminal proceedings.

319. Construction; application of other provisions.

320. Short title.

§ 311. Definitions

As used in this chapter, unless the context otherwise requires—

(a) "Dangerous caustic or corrosive substance" means:

(1) hydrochloric acid and any preparation containing free or chemically unneutralized hydrochloric acid (HCl) in a concentration of 10 percent or more;

(2) sulfuric acid and any preparation containing free or chemically unneutralized sulfuric acid (H₂SO₄) in a concentration of 10 percent or more;

(3) nitric acid or any preparation containing free or chemically unneutralized nitric acid (HNO₃) in a concentration of 5 percent or more;

(4) carboric acid (C₆H₅OH), otherwise known as phenol, and any preparation containing carboric acid in a concentration of 5 percent or more;

(5) oxalic acid and any preparation containing free or chemically unneutralized oxalic acid (H₂C₂O₄) in a concentration of 10 percent or more;

(6) any salt of oxalic acid and any preparation containing any such salt in a concentration of 10 percent or more;

(7) acetic acid or any preparation containing free or chemically unneutralized acetic acid (HC₂H₃O₂) in a concentration of 20 percent or more;

(8) hypochlorous acid, either free or combined, and any preparation containing the same in a concentration so as to yield 10 percent or more by weight of available chlorine, excluding calx chlorinata, bleaching power, and chloride of lime;

(9) potassium hydroxide and any preparation containing free or chemically unneutralized potassium hydroxide (KOH), including caustic potash and vienna paste, in a concentration of 10 percent or more;

(10) sodium hydroxide and any preparation containing free or chemically unneutralized sodium hydroxide (NaOH), including caustic soda and lye, in a concentration of 10 percent or more;

(11) silver nitrate, sometimes known as lunar caustic, and any preparation containing silver nitrate (AgNO₃) in a concentration of 5 percent or more; and

(12) ammonia water and any preparation containing free or chemically uncombined ammonia (NH₃), including ammonium hydroxide and "hartshorn," in a concentration of 5 percent or more.

(b) "Misbranded parcel, package, or container" means a retail parcel, package, or container of any dangerous caustic or corrosive substance not bearing a conspicuous, easily legible label or sticker, containing—

(1) the common name of the substance;

(2) the name and place of business of the manufacturer, packer, seller, or distributor;

(3) the word "poison," running parallel with the main body of reading matter on the label or sticker, on a clear, plain background of a distinctly contrasting color, in uncondensed gothic capital letters, the letters to be not less than 24-point size unless there is on the label or sticker no other type so large, in which event the type shall be not smaller than the largest type on the label or sticker; and

(4) directions for treatment in case of accidental personal injury by any dangerous caustic or corrosive substance, except that such directions need not appear on labels or stickers, on parcels, packages, or containers at the time of shipment or of delivery for shipment by manufacturers and wholesalers for other than household use.

(c) "Interstate or foreign commerce" means commerce (1) between any State, Territory, or possession, or the District of Columbia, and any place outside thereof, or (2) between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof, or (3) within any Territory or possession, or the District of Columbia.

(d) "Person" means an individual, partnership, corporation, or association.

§ 312. Misbranded shipments

(a) No person shall ship or deliver for shipment in interstate or foreign commerce or receive from shipment in such commerce any dangerous caustic or corrosive substance for sale or exchange, or sell or offer for sale any such substance in any Territory or possession or in the District of Columbia, in a misbranded parcel, package, or container suitable for household use.

(b) The provisions of subsection (a) of this section do not apply—

(1) to any regularly established common carrier shipping or delivering for shipment, or receiving from shipment, any such substance in the ordinary course of its business as a common carrier; nor

(2) to any person in respect of any such substance shipped or delivered for shipment, or received from shipment, for export to any foreign country, in a parcel, package, or container branded in accordance with the specifications of a foreign purchaser and in accordance with the laws of the foreign country; nor

(3) to any dealer who establishes a guaranty signed by, and containing the name and address of, the wholesaler, jobber, manufacturer, or other party residing in the United States, from whom he purchased such articles, to the effect that the articles are not misbranded within the meaning of this chapter. In such case the person giving such guaranty shall be amenable to the prosecutions, fines, and other penalties which would otherwise attach, in due course, to the dealer under the provisions of this chapter.

§ 313. Misbranded imports

(a) Whenever any dangerous caustic or corrosive substance is offered for importation and the Secretary of Health, Education, and Welfare has reason to believe that such substance is being shipped in interstate or foreign commerce in violation of section 312 of this title, the Secretary shall give due

notice and opportunity for hearing thereon to the owner or consignee and certify such fact to the Secretary of the Treasury, who shall thereupon either (1) refuse admission and delivery to the consignee of such substance, or (2) deliver such substance to the consignee pending examination, hearing, and decision in the matter, on the execution of a penal bond to the amount of the full invoice value of such substance, together with the duty thereon, if any, and to the effect that on refusal to return such substance for any cause to the Secretary of the Treasury when demanded, for the purpose of excluding it from the country or for any other purpose, the consignee shall forfeit the full amount of the bond.

(b) If, after proceeding in accordance with subsection (a) of this section, the Secretary is satisfied that such substance offered for importation was shipped in interstate or foreign commerce in violation of any provision of this chapter, the Secretary shall certify the fact to the Secretary of the Treasury, who shall thereupon notify the owner or consignee and cause the sale or other disposition of such substance refused admission and delivery or entered under bond, unless it is exported by the owner or consignee or labeled by him so as to conform to the law within 3 months from the date of such notice, under such regulations as the Secretary of the Treasury may prescribe. All charges for storage, cartage, or labor on any such substance refused admission or delivery or entered upon bond shall be paid by the owner or consignee. In default of such payment such charges shall constitute a lien against any future importations made by such owner or consignee.

§ 314. Removal of labels

No person shall alter, mutilate, destroy, obliterate, or remove any label or sticker required by this chapter to be placed on any dangerous caustic or corrosive substance, if such substance is being—

- (1) shipped in interstate or foreign commerce; or
- (2) held for sale or exchange after having been so shipped; or
- (3) held for sale or exchange in any Territory or possession or in the District of Columbia.

§ 315. Enforcement

(a) Except as otherwise specifically provided in this chapter, the Secretary of Health, Education, and Welfare shall enforce its provisions.

(b) For enforcing the provisions of sections 313, 316, and 317 of this title, the Secretary may cause investigations, inspections, analyses, and tests to be made and samples to be collected, of any dangerous caustic or corrosive substance. The Department of Health, Education, and Welfare shall pay to the person entitled, upon his request, the reasonable market value of any such sample taken. If it appears from the inspection, analysis, or test of any dangerous caustic or corrosive substance that such substance is in a misbranded package, parcel, or container suitable for household use, the Secretary shall cause notice thereof to be given to any person who may be liable for any violation of section 312 or 314 of this title in respect of such substance. Any person so notified shall be given an opportunity to be heard under the Secretary's regulations. If it appears that such person has violated the provisions of section 312 or 314 of this title, the Secretary shall at once certify the facts to the proper United States attorney, with a copy of the results of the inspection, analysis, or test duly authenticated under oath by the person making it.

(c) For the enforcement of his functions under this chapter the Secretary may—

- (1) prescribe and promulgate necessary regulations;
- (2) cooperate with any department or agency of the Government, with any State,

Territory, or possession, or with the District of Columbia, or with any department, agency, or political subdivision thereof, or with any person;

(3) appoint officers and employees necessary for the execution of this chapter and fix their salaries in accordance with the Classification Act of 1949;

(4) make such expenditures, including expenditures for personal services and rent at the seat of government and elsewhere, and for law books, books of reference, and periodicals, required for the execution of the Secretary's functions under this chapter and as provided for by the Congress from time to time; and

(5) give notice, by publication in such manner as the Secretary prescribes by regulation, of the judgment of the court in any case under the provisions of this chapter.

§ 316. Libel for condemnation

(a) Any dangerous caustic or corrosive substance in a misbranded parcel, package, or container suitable for household use shall be liable to be proceeded against in the United States district court for any judicial district in which the substance is found and to be seized for confiscation by a process of libel for condemnation, if such substance is being—

- (1) shipped in interstate or foreign commerce, or
- (2) held for sale or exchange after having been so shipped, or
- (3) held for sale or exchange in any Territory or possession or in the District of Columbia.

(b) If such substance is condemned as misbranded by the court it shall be disposed of in the discretion of the court—

- (1) by destruction;
- (2) by delivery to the owner thereof upon the payment of legal costs and charges and execution and delivery of a good and sufficient bond to the effect that such substance will not be sold or otherwise disposed of in any jurisdiction contrary to the provisions of this chapter or the laws of such jurisdiction.

(3) by sale. The proceeds of the sale, less legal costs and charges, shall be paid into the Treasury as miscellaneous receipts. Such substance shall not be sold in any jurisdiction contrary to the provisions of this chapter or the laws of such jurisdiction, and the court may require the purchaser at any such sale to label such substance in compliance with law before the delivery thereof; or

(c) Proceedings in such libel cases shall conform, as nearly as may be, to suits in rem in admiralty, except that either party may demand trial by jury on any issue of fact if the value in controversy exceeds \$20. In case of a jury trial the verdict of the jury shall have the same effect as a finding of the court upon the facts. All such proceedings shall be at the suit and in the name of the United States.

§ 317. Penalties

(a) Any person who violates any provision of section 312 or 314 of this title shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both. Any person who commits such a violation after one conviction under this section has become final shall be fined not more than \$10,000 or imprisoned not more than 3 years, or both.

(b) Notwithstanding the provisions of subsection (a) of this section, any person who violates any provision of section 312 or 314 of this title, with intent to defraud or mislead, shall be fined not more than \$10,000 or imprisoned not more than 3 years, or both.

§ 318. Institution of condemnation and criminal proceedings

Each United States attorney to whom the Secretary shall report any violation of section 312 or 314 of this title or to whom any health, medical, or drug officer or agent of any State, Territory, or possession, or of the

District of Columbia presents satisfactory evidence of any such violation, shall cause libel for condemnation and criminal proceedings under sections 316 and 317 of this title to be commenced and prosecuted in the proper court of the United States, without delay, for the enforcement of the condemnation and penalties provided in such sections.

§ 319. Construction; application of other provisions

(a) This chapter is not to be construed as modifying or limiting in any way the right of any person to manufacture, pack, ship, sell, barter, and distribute dangerous caustic or corrosive substances in parcels, packages, or containers, labeled as required by this chapter.

(b) The provisions of this chapter shall be held to be in addition to and not in substitution for the provisions of the following:

- (1) chapter 3 of this title;
- (2) chapter 6 of title 7;
- (3) the act entitled "An act to regulate the practice of pharmacy and the sale of poisons in the District of Columbia, and for other purposes", approved May 7, 1906, as amended.

§ 320. Short title

This chapter may be cited as the "Federal Caustic Poison Act."

PART II.—ANIMALS, POULTRY, AND MEATS

Chapter	Sec.
51. Department of Agriculture-----	451
53. Meat inspection-----	491
55. Animal and poultry disease prevention; transportation, import, and export-----	551
57. Serums and analogous products---	611

Chapter 51—Department of Agriculture

Sec.
451. Administration of part II; delegation of functions.

§ 451. Administration of part II; delegation of functions

The provisions of this part shall be administered by the Secretary of Agriculture, except as otherwise provided herein. Such Secretary's functions under this part shall be performed by him or, subject to his direction and control, by such officers and agencies of the Department of Agriculture as he designates.

Chapter 53—Meat inspection

Sec.
491. Definitions.
492. Antemortem inspections.
493. Postmortem inspections.
494. Meat food products.
495. Canning or packing meats and products; labels.
496. Inspection of establishments.
497. Time of inspections.
498. Meat for export; inspection; clearance.
499. Inspector's certificates.
500. Inspection, stamps or marks.
501. Farmers and retail butchers and dealers, exemptions.
502. Inspectors; appointment, powers, and duties.
503. Regulations.
504. Cost of inspections.
505. Transportation of uninspected and unmarked articles.
506. Transportation or sale in violation of chapter.
507. Forgery or misuse of marks or certificates.
508. Penalties generally.
509. Penalty for sale or transportation of unfit products by exempted persons.
510. Bribery; acceptance of gifts.
511. Horse meat.
512. Dairy products for export.
513. Reindeer.

§ 491. Definitions

As used in this chapter—

(a) "establishment" means a slaughtering, canning, salting, packing, rendering, or similar establishment;

(b) "farmer" means any natural person or partnership chiefly engaged in producing agricultural products on whose farm the number of cattle, calves, sheep, lambs, swine, or goats is in keeping with the size of the farm or with the volume or character of the agricultural products produced thereon, but does not mean any person or partnership engaged in producing agricultural products who—

(1) actively engages in buying or trading in cattle, calves, sheep, lambs, swine, or goats; or

(2) actively engages, directly or indirectly, in conducting a business which includes the slaughter of cattle, calves, sheep, lambs, swine, or goats for food purposes; or

(3) actively engages, directly or indirectly, in buying or selling meat or meat food products other than those prepared by any farmer on the farm; or

(4) actively engages, directly or indirectly, in salting, curing, or canning meat, or in preparing sausage, lard, or other meat food products; or

(5) slaughters, or permits any person to slaughter, on his or their farm cattle, calves, sheep, lambs, swine, or goats which are not actually owned by him or them;

(c) "inspector" means an inspector appointed by the Secretary of Agriculture under the provisions of this chapter;

(d) "retail butcher" or "retail dealer" means any person chiefly engaged in selling meat or meat food products to consumers only, except that the Secretary, at his discretion, may permit any retail butcher or retail dealer to transport in interstate or foreign commerce to consumers and meat retailers in any 1 week not more than 5 carcasses of cattle, 25 carcasses of calves, 20 carcasses of sheep, 25 carcasses of lamb, 10 carcasses of swine, 20 carcasses of goats, or 25 carcasses of goat kids, or the equivalent of fresh meat therefrom, and to transport in interstate or foreign commerce to consumers only meat and meat food products which have been salted, cured, canned, or prepared as sausage, lard, or other meat food products, and which have not been inspected, examined, and marked as "Inspected and passed" in accordance with this chapter and with the Secretary's rules and regulations;

5. "Secretary" means the Secretary of Agriculture.

§ 492. Ante-mortem inspections

For the purpose of preventing the use in interstate or foreign commerce of meat and meat food products which are unsound, unhealthful, unwholesome, or otherwise unfit for human food, the Secretary may cause to be made an examination and inspection of all cattle, sheep, swine, and goats, the meat and meat food products of which are to be used in interstate or foreign commerce, before they are allowed to enter into any establishment in which they are to be slaughtered. All such animals found on such inspection to show symptoms of disease shall be set apart and slaughtered separately from all other such animals. When so slaughtered the carcasses of such animals shall be subject to a careful examination and inspection, under the Secretary's rules and regulations, as provided for in this chapter.

§ 493. Post-mortem inspections

For the purpose set forth in section 492 of this title the Secretary shall cause to be made a post-mortem examination and inspection of the carcasses and parts thereof of all cattle, sheep, swine, and goats, which are to be prepared for human consumption at any establishment in any State or Territory or the District of Columbia for transportation or sale as articles of interstate or foreign commerce.

The carcasses and parts thereof of all such animals found to be sound, healthful, whole-

some, and fit for human food shall be marked, stamped, tagged, or labeled as "Inspected and Passed."

All carcasses and parts thereof found to be unsound, unhealthful, unwholesome, or otherwise unfit for human food shall be marked, stamped, tagged, or labeled as "Inspected and Condemned," and all carcasses and parts thereof thus inspected and condemned shall be destroyed for food purposes by the establishment in the presence of an inspector.

After the first inspection, the inspectors shall, when they deem it necessary, reinspect the carcasses or parts thereof and if upon such reinspection any carcass or any part thereof is found to be unsound, unhealthful, unwholesome, or otherwise unfit for human food, it shall be destroyed for food purposes by the establishment in the presence of an inspector.

The Secretary may remove inspectors from any establishment which fails so to destroy any carcass or part thereof required to be destroyed by this section.

The provisions of this section apply to all carcasses or parts of carcasses of cattle, sheep, swine, and goats, or the meat or meat food products thereof which may be brought into any establishment, and such examination and inspection shall be had before the said carcasses or parts thereof are allowed to enter into any department wherein they are to be treated and prepared for meat food products. The provisions of this section also apply to all such products, which, after having been issued from any establishment, are returned to the same or to any similar establishment where such inspection is maintained.

§ 494. Meat food products

For the purpose set forth in section 492 of this title the Secretary shall cause to be made an examination and inspection of all meat food products prepared for interstate or foreign commerce in any establishment.

The inspectors shall mark, stamp, tag, or label as "Inspected and passed" all such products found to be sound, healthful, and wholesome, and which contain no dyes, chemicals, preservatives, or ingredients which render such meat, or meat food products unsound, unhealthful, unwholesome, or unfit for human food.

The inspectors shall label, mark, stamp, or tag as "Inspected and condemned" all such products found unsound, unhealthful, and unwholesome, or which contain dyes, chemicals, preservatives, or ingredients which render such meat or meat food products unsound, unhealthful, unwholesome, or unfit for human food, and all such condemned meat food products shall be destroyed for food purposes by the establishment in the presence of an inspector. The Secretary may remove inspectors from any establishment which fails to so destroy such condemned meat food products.

Subject to the Secretary's rules and regulations the provisions of this section in regard to preservatives shall not apply to meat food products for export to any foreign country and which are prepared or packed according to the specifications or directions of the foreign purchaser, when no substance is used in the preparation or packing thereof in conflict with the laws of the foreign country to which said article is to be exported. If said article is in fact sold or offered for sale for domestic use or consumption, this paragraph shall not exempt said article from the operation of all the other provisions of this chapter.

§ 495. Canning or packing meats and products; labels

When any meat or meat food product prepared for interstate or foreign commerce which has been inspected under this chapter and marked "Inspected and passed" is

placed or packed in any can, pot, tin, canvas, or other receptacle or covering in any establishment where inspection is maintained under this chapter, the person preparing said product shall cause a label to be attached to said receptacle or covering, under the supervision of an inspector. Such label shall state that the contents thereof have been "Inspected and passed" under the provisions of this chapter. No inspection and examination of meat or meat food products deposited or inclosed in cans, tins, pots, canvas, or other receptacle or covering in any such establishment shall be deemed to be complete until such meat or meat food products have been sealed or inclosed in said receptacle or covering under the supervision of an inspector.

No such meat or meat food products shall be sold or offered for sale by any person in interstate or foreign commerce under any false or deceptive name. Established trade name or names which are usual to such products and which are not false and deceptive and which are approved by the Secretary are permitted.

§ 496. Inspection of establishments

The Secretary shall cause inspections to be made, by experts in sanitation or by other competent inspectors, of all establishments defined in section 491 of this title in which cattle, sheep, swine, and goats are slaughtered and the meat and meat food products thereof are prepared for interstate or foreign commerce. The inspections shall be such as are necessary to inform the Secretary concerning the sanitary conditions of the establishments, and to enable him to prescribe the rules and regulations of sanitation under which such establishments are maintained. Where the sanitary conditions of any such establishment are such that the meat or meat food products are rendered unclean, unsound, unhealthful, unwholesome, or otherwise unfit for human food, the Secretary shall refuse to allow said meat or meat food products to be labeled, marked, stamped, or tagged as "Inspected and passed."

§ 497. Time of inspections

(a) The examinations and inspections required by sections 492, 493, 494, and 495 of this title shall be made during the nighttime as well as during the daytime when the slaughtering of the animals or preparation of the meat or meat food products is conducted during the nighttime.

(b) For the purposes of any examination and inspection under this chapter, the inspectors shall have access at all times, by day or night, whether the establishment is being operated or not, to every part of the establishment.

§ 498. Meat for export; inspection; clearance

(a) The Secretary shall cause to be made a careful inspection of the carcasses and parts thereof of all cattle, sheep, swine, and goats, when the fresh, salted, canned, corned, packed, cured, or otherwise prepared meat or meat food products of such animals is intended and offered for export to any foreign country, at such times and places and in such manner as he deems proper.

(b) No clearance shall be given to any vessel having on board any fresh, salted, canned, corned, or packed beef, mutton, pork, or goat meat, for export to and sale in a foreign country from any port in the United States, until the owner or shipper thereof shall obtain a certificate from an inspector that the cattle, sheep, swine, and goats from which such meat or meat food product was obtained, were sound and healthy at the time of inspection, and that their meat or meat food product is sound and wholesome, unless the Secretary has waived the requirement of such certificate for the country to which such meat or meat food product is to be exported.

§ 499. Inspectors' certificates

The inspectors may give official certificates of the sound and wholesome condition of cattle, sheep, swine, and goats, their carcasses and products as described in this chapter.

One copy of each such certificate shall be filed in the Department of Agriculture, another copy shall be delivered to the owner or shipper, and when the carcasses of cattle, sheep, swine, and goats, and the meat and meat food products thereof are sent abroad, a third copy shall be delivered to the chief officer of the vessel on which the shipment is made.

§ 500. Inspection, stamps or marks

The inspectors shall refuse to stamp, mark, tag, or label as "Inspected and Passed" any carcass or any part thereof, or meat food product therefrom, prepared in any establishment subject to this chapter until the same has actually been inspected and found to be sound, healthful, wholesome, and fit for human food, and to contain no dyes, chemicals, preservatives, or ingredients which render such meat food product unsound, unhealthful, unwholesome, or unfit for human food, and to have been prepared under proper sanitary conditions.

§ 501. Farmers and retail butchers and dealers, exemptions

(a) The provisions of this chapter requiring inspection to be made by the Secretary do not apply to animals slaughtered by any farmer on the farm and sold and transported in interstate or foreign commerce, nor to retail butchers and retail dealers in meat and meat food products, supplying their customers.

No meat and meat food products derived from animals slaughtered by any farmer on the farm which are salted, cured, canned, or prepared into sausage, lard, or other meat food products at any place other than by the farmer on the farm upon which the animals were slaughtered shall be transported in interstate or foreign commerce under the farmers exemption provided in this section. All fresh meat and all farm-cured or prepared meat and meat food products derived from animals slaughtered by any farmer on the farm which are to be used in interstate or foreign commerce shall be clearly marked with the name and address of the farmer on whose farm the animals were slaughtered.

(b) The Secretary may maintain the inspection provided for in this chapter at any establishment notwithstanding the exemptions contained in this section, and notwithstanding that the persons operating the same may be retail butchers and retail dealers or farmers. Where the Secretary establishes such inspection, the provisions of this chapter shall apply notwithstanding such exemptions.

§ 502. Inspectors; appointment, powers, and duties

The Secretary shall from time to time appoint inspectors to make the examinations and inspections provided for under this chapter and to perform such other duties as are required by this chapter and the Secretary's rules and regulations.

§ 503. Regulations

The Secretary shall make such rules and regulations as are necessary for the efficient execution of the provisions of this chapter. All inspections and examinations under this chapter shall be made in the manner provided in the Secretary's rules and regulations which are not inconsistent with this chapter.

§ 504. Cost of inspections

The United States shall bear the cost of inspections rendered under the requirements of this chapter except the cost of overtime pursuant to section 394 of title 7.

§ 505. Transportation of uninspected and unmarked articles

No person shall transport or offer for transportation, and no carrier of interstate or foreign commerce shall transport or receive for transportation from one State or Territory or the District of Columbia or to any other State or Territory or the District of Columbia, or to any place under the jurisdiction of the United States, or to any foreign country, any carcasses or parts thereof, meat, or meat food products thereof which have not been inspected, examined, and marked as "Inspected and Passed," in accordance with the terms of this chapter and with the Secretary's rules and regulations.

§ 506. Transportation or sale in violation of chapter

No person engaged in the interstate commerce of meat or meat food products shall transport or offer for transportation, sell or offer to sell, any such meat or meat food products in any State or Territory or in the District of Columbia or any place under the jurisdiction of the United States, other than in the State or Territory or in the District of Columbia or any place under the jurisdiction of the United States in which the slaughtering, packing, canning, rendering, or other similar establishment owned, leased, or operated by such person is located unless and until such person shall have complied with all of the provisions of this chapter.

§ 507. Forgery or misuse of marks or certificates

No person shall forge, counterfeit, simulate, or falsely represent, or shall without proper authority use, fail to use, or detach, or shall knowingly or wrongfully alter, deface, or destroy, or fail to deface or destroy, any of the marks, stamps, tags, labels, or other identification devices provided for in this chapter, or in and as directed by the rules and regulations prescribed under this chapter by the Secretary of Agriculture, on any carcasses, parts of carcasses, or the food product, or containers thereof, subject to the provisions of this chapter or any certificate in relation thereto, authorized or required by this chapter or by the said rules and regulations of the Secretary of Agriculture.

§ 508. Penalties generally

Except as provided in sections 509 and 510 of this title, whoever violates any of the provisions of this chapter shall be fined not more than \$10,000 or imprisoned not more than 1 year, or both.

§ 509. Penalty for sale or transportation of unfit products by exempted persons

Whoever, being a farmer, retail butcher, or retail dealer acting under the exemptions provided in section 502 of this title, sells or offers for sale or transportation for interstate or foreign commerce any meat or meat food products which are diseased, unsound, unhealthful, unwholesome, or otherwise unfit for human food, knowing that such meat food products are intended for human consumption, shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both.

§ 510. Bribery; acceptance of gifts

(a) Whoever gives, pays, or offers, directly or indirectly, to any inspector, deputy inspector, chief inspector, or any other officer or employee of the United States authorized to perform any of the duties prescribed by this chapter or by the Secretary's rules and regulations, any money or other thing of value, with intent to influence such inspector, deputy inspector, chief inspector, or other officer or employee of the United States in the discharge of any duty provided for in this chapter, shall be fined not more than \$10,000 or imprisoned not more than 3 years, or both.

(b) Whoever, being an inspector, deputy inspector, chief inspector, or other officer or employee of the United States authorized to perform any of the duties prescribed by this chapter, accepts any money, gift, or other thing of value from any person, given with intent to influence his official action, or who receives or accepts from any person engaged in interstate or foreign commerce any gift, money, or other thing of value, given with any purpose or intent whatsoever, shall be summarily discharged from office and shall be fined not more than \$10,000 or imprisoned not more than 3 years, or both.

§ 511. Horse meat

(a) No person shall transport or offer for transportation, and no carrier of interstate or foreign commerce shall transport or receive for transportation from one State or Territory or the District of Columbia to any other State or Territory or the District of Columbia or to any place under the jurisdiction of the United States or to any foreign country, any equine meat or food products thereof unless plainly and conspicuously labeled, marked, branded, or tagged "Horse meat" or "Horse-meat Product," as the case may be, under rules and regulations prescribed by the Secretary.

(b) All the penalties, terms, and provisions in this chapter, except the exemption in section 501 of this title applying to animals slaughtered by any farmer on a farm and to retail butchers and retail dealers in meat food products supplying their customers, shall be applicable to (1) horses, their carcasses, parts of carcasses, and meat food products thereof, (2) the establishments and other places where such animals are slaughtered or the meat or meat food products thereof are prepared or packed for interstate or foreign commerce, and (3) all persons who slaughter such animals or prepare or handle such meat or meat food products for interstate or foreign commerce.

§ 512. Dairy products for export

This chapter shall be deemed to include dairy products intended for exportation to any foreign country. The Secretary may apply, under rules and regulations prescribed by him, the provisions of this chapter for inspection and certification appropriate for ascertaining the purity and quality of such products, and may cause them to be so marked, stamped, or labeled as to secure their identity and make known in the markets of foreign countries to which they may be sent from the United States their purity, quality, and grade. All the provisions of this chapter relating to live cattle and products thereof for export shall apply to dairy products so inspected and certified.

§ 513. Reindeer

The provisions of this chapter may be extended to the inspection of reindeer.

Chapter 55—Animal and poultry disease prevention; transportation, import, and export

Sec.

- 551. Measures and regulations to prevent introduction or spread of disease.
- 552. Control of diseases; cooperation with States.
- 553. Research laboratories for foot-and-mouth and other diseases.
- 554. Appointment of agents to make recommendations.
- 555. Cooperation with Mexico; foot-and-mouth disease and rinderpest; reports to Congress.
- 556. Cattle grubs, research and eradication.
- 557. International boundary fences.
- 558. Regulation of transportation and exportation generally.
- 559. Quarantine of infected areas.
- 560. Regulations for transportation from quarantined areas.

- 561. Transportation from quarantined areas prohibited; exceptions.
- 562. Transportation of diseased livestock or poultry prohibited.
- 563. Cattle reacting to tuberculin test, transportation of.
- 564. Domestic animals reacting to test for paratuberculosis or brucellosis.
- 565. Regulation and promotion of exports.
- 566. Suspension of importation.
- 567. Importation of diseased or exposed animals and poultry prohibited.
- 568. Importation prohibited except at quarantine stations.
- 569. Quarantine of imported animals and poultry.
- 570. Inspection and disposition of imported animals and poultry.
- 571. Disease control in District of Columbia.
- 572. Inspection by Department as precluding other inspections and fees.
- 573. Penalties.
- 574. Prosecution of violations; venue.

§ 551. Measures and regulations to prevent introduction or spread of disease

The Secretary of Agriculture may—

(1) make regulations and take measures to prevent the introduction or dissemination of the contagion of any communicable disease of animals or poultry from a foreign country into the United States or from one State or Territory of the United States or the District of Columbia to another, and

(2) seize, quarantine, and dispose of any hay, straw, forage, or similar material, or any meats, hides, or other animal or poultry products coming from an infected foreign country to the United States, or from one State or Territory or the District of Columbia in transit to another State or Territory or the District of Columbia whenever in his judgment such action is advisable to guard against the introduction or spread of such contagion.

§ 552. Control of diseases; cooperation with States

(a) The Secretary of Agriculture shall prepare rules and regulations for the speedy and effectual control and eradication of dangerous communicable diseases of domestic animals and poultry. He shall certify such rules and regulations to the executive authority of each State and Territory, and invite said authorities to cooperate in the execution and enforcement of the provisions of this chapter. Whenever the plans and methods of the Secretary are accepted by any State or Territory in which any such disease is declared to exist, or whenever such State or Territory adopts plans and methods for the control and eradication of the disease and such plans and methods are accepted by the Secretary of Agriculture, and whenever the governor of a State or other properly constituted authorities signify their readiness to cooperate for the extinction of the disease in conformity with the provisions of this chapter, the Secretary may expend so much of the money appropriated for carrying out the provisions of this chapter as may be necessary in such investigations, and in such disinfection and quarantine measures as may be necessary to prevent the spread of the disease from one State or Territory into another.

(b) The Secretary of Agriculture, either independently or in cooperation with States or political subdivisions thereof, farmers' associations, and similar organizations, and individuals, may control and eradicate tuberculosis and paratuberculosis of animals, avian tuberculosis, brucellosis of domestic animals, southern cattle ticks, hog cholera and related swine diseases, scabies in sheep and cattle, dourine in horses, scrapie and blue tongue in sheep, incipient or potentially serious minor outbreaks of diseases in animals and poultry, and communicable diseases of animals and poultry which in the opinion of the Secretary constitute an emer-

gency and threaten the livestock industry of the country, including the purchase and destruction of diseased or exposed animals and poultry, or the destruction of such animals and poultry and the payment of indemnities therefor, in accordance with such regulations as the Secretary prescribes. As used in this subsection, the term "State" includes the District of Columbia and the Territories and possessions of the United States.

§ 553. Research laboratories for foot-and-mouth and other diseases

The Secretary of Agriculture may establish research laboratories, including the acquisition of necessary land, buildings, or facilities, and also the making of research contracts under the authority contained in section 4271 (a) of title 7, for research and study, in the United States or elsewhere, of foot-and-mouth disease and other animal and poultry diseases which in his opinion constitute a threat to the livestock or poultry industry of the United States.

No live virus of foot-and-mouth disease may be introduced for any purpose into any part of the mainland of the United States except coastal islands separated therefrom by waters navigable for deep-water navigation and which are not connected with the mainland by any tunnel, and except further, that in the event of outbreak of foot-and-mouth disease in this country, the Secretary of Agriculture may, at his discretion, permit said virus to be brought into the United States under adequate safeguards.

To carry out the provisions of this section, the Secretary may employ technical experts or scientists without regard to the Classification Act of 1949, but the number so employed shall not exceed five and the maximum compensation for each shall not exceed \$15,000 per annum. There is authorized to be appropriated such sums as Congress may deem necessary and, in addition, the Secretary may utilize, in carrying out this section, funds otherwise available for the control or eradication of such diseases.

§ 554. Appointment of agents to make recommendations

The Secretary of Agriculture may appoint two competent agents, who are practical stock raisers or experienced businessmen familiar with questions pertaining to commercial transactions in livestock or poultry, who shall, under the instructions of the Secretary, examine and report upon the best methods of treating, transporting, and caring for animals and poultry, and the means to be adopted for the control and eradication of contagious pleuropneumonia, and provide against the spread of other dangerous communicable diseases. The compensation of such agents shall be at the rate of \$10 per diem, with all necessary expenses, while engaged in the actual performance of their duties under this section, when absent from their usual place of business or residence.

§ 555. Cooperation with Mexico; foot-and-mouth disease and rinderpest; reports to Congress

(a) The Secretary of Agriculture may cooperate with the Government of Mexico in carrying out operations or measures to eradicate, suppress, or control, or to prevent or retard, foot-and-mouth disease or rinderpest in Mexico where he deems such action necessary to protect the livestock and related industries of the United States. In performing such operations or measures, the Government of Mexico shall be responsible for the authority necessary to carry them out on all lands and properties in Mexico and for such other facilities and means as are necessary in the discretion of the Secretary of Agriculture. The measure and character of cooperation carried out under this section on the part of the United States and on the part

of the Government of Mexico, including the expenditure or use of funds appropriated pursuant to this section, shall be such as may be prescribed by the Secretary of Agriculture. Arrangements for such cooperation shall be made through and in consultation with the Secretary of State. The authority contained in this section is in addition to and not in substitution for the authority of existing law.

(b) For purposes of this section, funds appropriated pursuant thereto may also be used for (1) the purchase or hire of passenger motor vehicles and aircraft, (2) printing and binding without regard to section 111 of title 44, (3) the employment of civilian nationals of Mexico, and (4) the construction and operation of research laboratories, quarantine stations, and other buildings and facilities.

(c) The Secretary of Agriculture shall make a report to the Congress on the last day of each month with respect to the activities carried on under this section.

§ 556. Cattle grubs, research and eradication

In order to protect, promote, and conserve livestock and livestock products and to minimize losses, the Secretary of Agriculture, either independently or in cooperation with States or subdivisions thereof, farmers' associations, and other organizations and individuals, may increase and intensify research and investigations into problems and methods relating to the eradication of cattle grubs and undertake measures to eradicate these parasites. As used in this section, the term "State" includes the District of Columbia and the Territories and possessions of the United States. Funds appropriated to carry out this section shall be expended in accordance with procedures prescribed by the Secretary.

§ 557. International boundary fences

The Secretary of Agriculture may permit the erection of fences along international boundary lines, but entirely within the territory of the United States, for the purpose of keeping out diseased animals and poultry.

§ 558. Regulation of transportation and exportation generally

In order to enable the Secretary of Agriculture effectually to control and eradicate dangerous communicable diseases in cattle and other livestock and poultry, and to prevent the spread of such diseases he shall establish such rules and regulations concerning the exportation and transportation of livestock and poultry from any place within the United States where he may have reason to believe such diseases may exist into and through any State or Territory, and into and through the District of Columbia and to foreign countries as he deems necessary. All such rules and regulations shall have the force of law.

§ 559. Quarantine of infected areas

The Secretary of Agriculture shall quarantine any State or Territory or the District of Columbia, or any portion of any State or Territory or the District of Columbia, when he determines the fact that cattle or other livestock or poultry in such State or Territory or District of Columbia are affected with any communicable disease. He shall give written or printed notice of the establishment of quarantine to the proper officers of railroad, steamboat, or other transportation companies doing business in or through any quarantined State or Territory or the District of Columbia, and publish such notice in such newspapers in the quarantined State or Territory or the District of Columbia as he may select.

§ 560. Regulations for transportation from quarantined areas

The Secretary of Agriculture shall, when the public safety will permit, make and

promulgate rules and regulations which shall permit and govern the inspection, disinfection, certification, treatment, handling, and method and manner of delivery and shipment of cattle or other livestock or poultry from a quarantined State or Territory or the District of Columbia, and from the quarantined portion of any State or Territory or the District of Columbia, into any other State or Territory or the District of Columbia. The Secretary shall give notice of such rules and regulations in the manner provided in section 559 of this title for notice of establishment of quarantine.

§ 561. Transportation from quarantined areas prohibited; exceptions

(a) No railroad company and no owners or masters of any vessel or boat shall receive for transportation or transport, no person shall deliver for transportation to any railroad company or to the master or owner of any vessel or boat, and no person shall drive or cause to be driven on foot or transport or cause to be transported by private conveyance, any cattle or other livestock or poultry from any quarantined State or Territory or the District of Columbia, or from any quarantined portion thereof, into any other State or Territory or the District of Columbia, except in compliance with rules and regulations promulgated by the Secretary of Agriculture under section 560 of this title.

(b) The provisions of subsection (a) of this section and sections 559, 560, and 573 (b) of this title shall apply to any railroad company or other common carrier whose road or line forms any part of a route over which cattle or other livestock or poultry are transported in the course of shipment from any quarantined State or Territory or the District of Columbia, or from the quarantined portion of any State or Territory or the District of Columbia, into any other State or Territory or the District of Columbia.

§ 562. Transportation of diseased livestock or poultry prohibited

No railroad company within the United States, and no owners or masters of any vessel or boat, shall receive for transportation or transport from one State or Territory to another, or from any State into the District of Columbia, or from the District into any State, any livestock or poultry affected with any communicable disease; nor shall any person deliver for such transportation to any railroad company, or master or owner of any boat or vessel, any livestock or poultry, knowing them to be affected with any communicable disease. No person shall drive on foot, or transport in private conveyance, from one State or Territory to another, or from any State into the District of Columbia, or from the District into any State, any livestock or poultry, knowing them to be affected with any communicable disease.

§ 563. Cattle reacting to tuberculin test, transportation of

Cattle which have reacted to the tuberculin test may be shipped, transported, or moved from one State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia, for immediate slaughter, in accordance with such rules and regulations as shall be prescribed by the Secretary of Agriculture. The Secretary may, in his discretion, and under such rules and regulations as he may prescribe, permit cattle which have been shipped for breeding or feeding purposes from one State, Territory, or the District of Columbia to another State, Territory, or the District of Columbia, and which have reacted to the tuberculin test subsequent to such shipment, to be reshipped in interstate commerce to the original owner.

§ 564. Domestic animals reacting to test for paratuberculosis or brucellosis

Domestic animals which have reacted to a test recognized by the Secretary of Agriculture for paratuberculosis or which, never having been vaccinated for brucellosis, have reacted to a test recognized by the Secretary of Agriculture for brucellosis, may be shipped, transported, or otherwise moved from one State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia for immediate slaughter in accordance with such rules and regulations as the Secretary of Agriculture may prescribe to prevent the dissemination of said diseases from one State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia. The Secretary of Agriculture may, in his discretion and under such rules and regulations as he may prescribe, permit domestic animals which have been moved from one State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia, for breeding purposes, and which, subsequent to such movement, have reacted to a test for brucellosis or paratuberculosis recognized by the Secretary of Agriculture, to be reshipped in interstate commerce to the original owner at the point of origin.

§ 565. Regulation and promotion of exports

(a) The Secretary of Agriculture may take such steps and adopt such measures, not inconsistent with the provisions of this chapter, as he deems necessary to prevent the exportation from any port of the United States to any port in a foreign country of livestock or poultry affected with any communicable disease.

(b) In order to promote the exportation of livestock and poultry from the United States the Secretary of Agriculture shall make special investigation as to the existence of any communicable disease, along the borders between the United States and foreign countries, and along the lines of transportation from all parts of the United States to ports from which livestock or poultry are exported, and shall, from time to time, establish such regulations concerning the exportation and transportation of livestock or poultry as the results of such investigations may require.

(c) The Secretary of Agriculture, by such orders and regulations as he prescribes, may cause inspection to be made of all cattle, sheep, other ruminants, swine, and poultry intended for exportation, and provide for the disinfection of all vessels engaged in the transportation thereof, and of all barges or other vessels used in the conveyance of such animals and poultry to the ocean steamer or other vessels, and of all attendants and their clothing, and of all headropes and other appliances used in such exportation. If, upon such inspection, any such animals or poultry are adjudged, under the Secretary's regulations, to be infected or to have been exposed to infection so as to be dangerous to other animals or poultry, they shall not be allowed to be placed upon any vessel for exportation. The expense of all the inspection and disinfection provided for in this subsection shall be borne by the owners of the vessels on which such animals or poultry are exported.

(d) The Secretary shall cause to be made a careful inspection of all cattle, sheep, swine, and goats intended and offered for export to foreign countries at such times and places, and in such manner, as he deems proper to ascertain whether such animals are free from disease.

(e) No clearance shall be given to any vessel having on board cattle, sheep, swine, or goats for export to a foreign country until

the owner or shipper of such animals has a certificate from an inspector stating that the animals are sound and healthy, or unless the Secretary has waived the requirement of such certificate for export to the particular country to which they are to be exported.

§ 566. Suspension of importation

Whenever, in the opinion of the President, it is necessary for the protection of animals, including poultry, in the United States against communicable diseases, he may, by proclamation, suspend the importation of all or any class of animals or poultry for a limited time, and may change, modify, revoke, or renew such proclamation, as the public good may require. During the time of such suspension the importation of any such animals or poultry shall be unlawful.

§ 567. Importation of diseased or exposed animals and poultry prohibited

No person shall import cattle, sheep, other ruminants, swine, and poultry, which are diseased or infected with any disease, or which have been exposed to such infection within 60 days next before their exportation. However, the Secretary of Agriculture may by regulations permit the admission from Mexico into the State of Texas of cattle which have been infested with or exposed to ticks upon being freed therefrom.

§ 568. Importation prohibited except at quarantine stations

No person shall import cattle, sheep, other ruminants, swine, and poultry except at ports designated as quarantine stations by the Secretary of Agriculture with the approval of the Secretary of the Treasury.

If any animals and poultry subject to quarantine are brought into any port of the United States where no quarantine station is established, the collector of such port shall require such animals and poultry to be conveyed to the nearest quarantine station by the vessel on which they are imported or are found, at the expense of the owner.

§ 569. Quarantine of imported animals and poultry

The Secretary of Agriculture may, at the expense of the owner, place and retain in quarantine all cattle, sheep, other ruminants, swine, and poultry imported into the United States, at ports designated by him for such purpose, and under such conditions as he by regulation prescribes, respectively, for the several classes of animals and poultry above described.

For the purpose of such quarantine, the Secretary may purchase, construct, or rent such lands, buildings, animals, tools, fixtures, and appurtenances as may be necessary, and he may appoint such veterinary surgeons, inspectors, officers, and employees as he deems necessary to maintain such quarantine and provide for the execution of the other provisions of sections 565 (c), 566-570, and 573 (e) of this title.

§ 570. Inspection and disposition of imported animals and poultry

(a) The Secretary of Agriculture shall cause careful inspection to be made of all imported cattle, sheep, other ruminants, swine, and poultry, to ascertain whether such animals and poultry are infected with communicable diseases or have been exposed to infection so as to be dangerous to other animals and poultry. Such animals and poultry shall then be either placed in quarantine or dealt with according to the Secretary's regulations.

All food, litter, manure, clothing, utensils, and other appliances that have been so related to such animals and poultry on board ship as to be judged liable to convey infec-

tion shall be dealt with according to the Secretary's regulations.

(b) The Secretary of Agriculture may cause to be slaughtered such of the animals and poultry named in subsection (a) of this section as may be, under his regulations, adjudged to be infected with any communicable disease, or to have been exposed to infection so as to be dangerous to other animals and poultry. The value of animals and poultry slaughtered as being exposed to infection but not infected may be ascertained by agreement of the Secretary and the owners thereof if practicable; otherwise, by the appraisal by two persons familiar with the character and value of such property, appointed by the Secretary, whose decision, if they agree, shall be final; otherwise, the Secretary of Agriculture shall decide between them, and his decision shall be final. The amount of the value thus ascertained shall be paid to the owner thereof out of money in the Treasury appropriated for the use of the Bureau of Animal Industry or for the use of such other bureau or agency, or of any officer, of the Department of Agriculture, to which or to whom the Secretary may delegate the functions heretofore or hereafter exercised by him through the Bureau of Animal Industry; but no payment shall be made for any animals or poultry imported in violation of the provisions of sections 566-570 or 573 (e) of this title.

§ 571. Disease control in District of Columbia

Whenever any communicable disease affecting domestic animals or poultry is brought into or breaks out in the District of Columbia, the Commissioners of the District of Columbia shall take measures to suppress the disease promptly and to prevent it from spreading. For this purpose the Commissioners may (1) require that any premises or farms where such disease exists, or has existed, be put in quarantine; (2) order that all or any animals and poultry coming into the District be detained at any place for the purpose of inspection and examination; (3) prescribe regulations for and require the destruction of animals or poultry affected with communicable disease, and for the proper disposition of their hides and carcasses; and (4) prescribe regulations for disinfection, and such other regulations as they may deem necessary to prevent infection or contagion being communicated. The Commissioners shall report to the Secretary of Agriculture any actions taken under this section.

§ 572. Inspection by Department as precluding other inspections and fees

Whenever the Secretary of Agriculture, or any inspector or assistant inspector of the Department of Agriculture designated by the Secretary for such purpose, issues a certificate showing that such officer has inspected any cattle or other livestock or poultry which are about to be shipped, driven, or transported from one locality to another as stated in section 558 of this title, and has found them free from any communicable disease, such animals or poultry, so inspected and certified, may be shipped, driven, or transported from such place into and through any State or Territory or the District of Columbia, or they may be exported from the United States, without further inspection or the exaction of fees of any kind, except such as may at any time be ordered or exacted by the Secretary of Agriculture. For the purposes of such inspection, all such animals and poultry shall at all times be under the control and supervision of the Secretary of Agriculture.

§ 573. Penalties

(a) Whoever knowingly violates section 551, 558 or 572 of this title or the orders or regulations made in pursuance thereof shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both.

(b) Whoever violates section 561 of this title shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both.

(c) The Secretary of Agriculture shall give notice of the existence of contagion in any infected locality by notice, in writing, to the proper officials or agents of any railroad, steamboat, or other transportation company doing business in or through such locality, and by publication in such newspapers as he may select. Whoever, being a person operating any such railroad, or master or owner of any boat or vessel, or owner or custodian of or person having control over such cattle or other livestock or poultry within such infected district, knowingly violates section 562 of this title shall be fined not more than \$5,000 or imprisoned not more than 1 year, or both.

(d) Whoever violates section 565 (d) (e) of this title shall be fined not more than \$10,000 or imprisoned not more than 1 year, or both.

(e) Whoever knowingly violates section 567 of this title shall be fined not more than \$5,000 or imprisoned not more than 3 years. Any vessel or vehicle used in such unlawful importation within the knowledge of the master or owner of such vessel or vehicle that such importation is diseased or has been exposed to infection as described in section 567 of this title, shall be forfeited to the United States.

§ 574. Prosecution of violations; venue

The several United States attorneys shall prosecute all violations of this chapter which are brought to their notice by any person making complaint under oath, in the United States district court or Territorial court held within the district in which the violation has been committed.

Chapter 57—Serums and analogous products

Sec.

611. Preparation and sale of serum, etc.

612. Licensing and inspection of establishments.

613. Regulations for preparation and sale.

614. Importation regulated and prohibited.

615. Permits for and inspection of imports.

616. Revocation or suspension of licenses or permits.

617. Penalties.

§ 611. Preparation and sale of serum, etc.

No person shall prepare, sell, barter, or exchange in the District of Columbia, in the Territories, or in any place under the jurisdiction of the United States, or ship or deliver for shipment from one State or Territory or the District of Columbia to any other State or Territory or the District of Columbia—

(1) any worthless, contaminated, dangerous, or harmful virus, serum, toxin, or analogous product intended for use in the treatment of domestic animals; or

(2) any virus, serum, toxin, or analogous product manufactured within the United States and intended for use in the treatment of domestic animals, unless and until such product has been prepared, under and in compliance with regulations prescribed by the Secretary of Agriculture, at an establishment holding an unsuspended and unrevoked license issued by the Secretary under this chapter.

§ 612. Licensing and inspection of establishments

(a) The Secretary of Agriculture may issue, suspend, and revoke licenses for the maintenance of establishments for the preparation of viruses, serums, toxins, and analogous products, for use in the treatment of domestic animals, intended for sale, barter, exchange, or shipment as specified in section 611 of this title.

(b) All licenses issued to establishments under this chapter shall be issued on con-

dition that the licensee shall permit the inspection of such establishments and of such products and their preparation. Any officer, agent, or employee of the Department of Agriculture duly authorized by the Secretary for the purpose may enter and inspect any establishment licensed under this chapter at any hour of the day or night.

§ 613. Regulations for preparation and sale

The Secretary of Agriculture may make and promulgate from time to time such rules and regulations as may be necessary to prevent the preparation, sale, barter, exchange, or shipment as specified in section 611 of this title of any worthless, contaminated, dangerous, or harmful virus, serum, toxin, or analogous product for use in the treatment of domestic animals.

§ 614. Importation regulated and prohibited

No person shall import into the United States, without a permit from the Secretary of Agriculture, any virus, serum, toxin, or analogous product for use in the treatment of domestic animals, and no person shall import into the United States any worthless, contaminated, dangerous, or harmful virus, serum, toxin, or analogous product for use in the treatment of domestic animals.

§ 615. Permits for and inspection of imports

(a) The Secretary of Agriculture may issue permits for the importation into the United States of viruses, serums, toxins, and analogous products, for use in the treatment of domestic animals, which are not worthless, contaminated, dangerous, or harmful.

(b) The Secretary may cause to be examined and inspected all viruses, serums, toxins, and analogous products, for use in the treatment of domestic animals, which are being imported or offered for importation into the United States, to determine whether such products are worthless, contaminated, dangerous, or harmful. If it appears that any such product is worthless, contaminated, dangerous, or harmful, such product shall be denied entry and shall be destroyed or returned at the expense of the owner or importer.

§ 616. Revocation or suspension of licenses or permits

The Secretary of Agriculture may suspend or revoke any license or permit issued under this chapter, after opportunity for hearing has been granted the licensee or importer, when the Secretary is satisfied that such license or permit is being used to facilitate or effect the preparation, sale, barter, exchange, or shipment as specified in section 611 of this title, or the importation into the United States, of any worthless, contaminated, dangerous, or harmful virus, serum, toxin, or analogous product for use in the treatment of domestic animals.

§ 617. Penalties

Whoever violates any of the provisions of this chapter shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

PART III.—NARCOTICS

Chapter	Sec.
91. Administration.....	711
93. Narcotics import and export....	761
95. Domestic opium poppy production control	811

Chapter 91—Administration

Sec.
711. Administration of Part III; delegation of functions.
712. Departmental cooperation in discharge of international obligations.
713. Cooperation with States in suppression of abuse.
714. Payments for information.

§ 711. Administration of Part III; delegation of functions

Except as otherwise provided by law, the administration and enforcement of this part are vested in the Secretary of the Treasury. Such Secretary's functions under this part shall be performed by him or, subject to his direction and control, by such officers, agencies and bureaus of the Department of the Treasury as he designates.

§ 712. Departmental cooperation in discharge of international obligations

The Secretary of the Treasury shall cooperate with the Secretary of State in the discharge of the international obligations of the United States concerning the traffic in narcotic drugs.

§ 713. Cooperation with States in suppression of abuse

(a) The Secretary of the Treasury shall cooperate with the several States in the suppression of the abuse of narcotic drugs in their respective jurisdictions, and to that end he may:

(1) Cooperate in the drafting of such legislation as may be needed to effect the end named; and

(2) Arrange for the exchange of information concerning the use and abuse of narcotic drugs in said States and for cooperation in the institution and prosecution of cases in the courts of the United States and before the licensing boards and courts of the several States.

(b) The Secretary of the Treasury may prescribe such regulations as may be necessary to carry out the purposes of this section.

§ 714. Payments for information concerning violations of laws

The Secretary of the Treasury may pay to any person, from funds now or hereafter appropriated for the enforcement of the narcotic laws of the United States, for information concerning a violation of any narcotic law of the United States, resulting in a seizure of contraband narcotics, such sum or sums of money as he may deem appropriate, without reference to any moiety or rewards to which such person may otherwise be entitled by law. All payments under authority of this section to any informer in any foreign country shall be made only through an accredited consul or vice consul of the United States stationed in such country, and every such payment shall be supported by a voucher with an accompanying certificate of such consul or vice consul that the payment of the amount stated on the voucher has been made to the informer named, and at the place and time specified on such voucher.

Chapter 93—Narcotics import and export

Sec.

761. Definitions.

762. Rules and regulations.

763. Importation; exceptions and restrictions; forfeitures.

764. Import for purpose of transportation to another country; transfer between vessels.

765. Penalty for unlawful import, receipt, transportation or sale; subsequent offenses; procedure; evidence; liability of masters and persons in charge.

766. Presumption and burden of proof as to importation of smoking opium.

767. Exportation; exception; laws of foreign governments.

768. Penalty for unlawful export.

769. Penalty for having in possession or control on board United States vessel.

770. Penalty for possession, receipt, or concealment of smoking opium; evidence; liability of masters and persons in charge.

771. Share of fine to informer.

772. Short title.

§ 761. Definitions

As used in this chapter, unless the context requires a different meaning—

(a) "narcotic drug", "isonipecaine," and "opiate" shall have the same meaning ascribed to these terms as used in the Internal Revenue Code;

(b) "United States," when used in a geographical sense, includes the several States and Territories, and the District of Columbia;

(c) "Secretary" means the Secretary of the Treasury;

(d) "person" means an individual, partnership, corporation, or association.

§ 762. Rules and regulations

The Secretary shall prescribe and publish all proper rules and regulations to carry into effect the authority vested in him by this chapter.

§ 763. Importation; exceptions and restrictions; forfeitures

(a) No narcotic drug may be imported or brought into the United States or any Territory under its control or jurisdiction, except that, under such regulations as the Secretary shall prescribe—

(1) Such amounts of crude opium and coca leaves as the Secretary finds to be necessary to provide for medical and scientific uses may be so imported or brought in; but no crude opium may be imported or brought in for the purpose of manufacturing heroin, and the Secretary may limit further or prohibit entirely the importation or bringing in of crude opium, to the extent that he finds that the medical and scientific needs of the United States for opium or opium products are being, or can be, supplied by opium poppies produced in accordance with chapter 95 of this title; and

(2) Amounts of coca leaves in addition to the amount permitted under paragraph (1) of this subsection may be imported or brought in; but after the entry of such additional amounts into the United States or any Territory under its control or jurisdiction, all cocaine, ecgonine, and all salts, derivatives, and preparations from which cocaine or ecgonine may be synthesized or made, contained therein, shall be destroyed under the supervision of the Secretary or his authorized representative.

(b) All narcotic drugs imported under subsection (a) of this section shall be subject to the duties which are now or may hereafter be imposed upon such drugs when imported.

(c) Any narcotic drug imported or brought into the United States or any territory under its control or jurisdiction, contrary to law, shall—

(1) If smoking opium, or opium prepared for smoking, be seized and summarily forfeited to the United States Government without the necessity of instituting forfeiture proceedings of any character; or

(2) If any other narcotic drug be seized and forfeited to the United States Government, without regard to its value, in the manner provided by sections 1607 and 1608 of title 19, or the provisions of law hereafter enacted which are amendatory of, or in substitution for, such sections.

(d) Any narcotic drug which is forfeited in a proceeding for condemnation or not claimed under sections 1607 and 1608 of title 19, or which is summarily forfeited as provided in subsection (c) of this section, shall be placed in the custody of the Secretary and in his discretion be destroyed or delivered to some agency of the United States Government for use for medical or scientific purposes.

§ 764. Import for purpose of transportation to another country; transfer between vessels

No smoking opium, or opium prepared for smoking, shall be admitted into the United

States or into any territory under its control or jurisdiction for transportation to another country, or be transferred or transshipped from one vessel to another vessel within any waters of the United States for immediate exportation or for any other purpose; and except with the approval of the Secretary, no other narcotic drug may be so admitted, transferred, or transshipped.

§ 765. Penalty for unlawful import, receipt, transportation or sale; subsequent offenses; procedure; evidence; liability of masters and persons in charge

(a) Whoever fraudulently or knowingly imports or brings any narcotic drug into the United States or any territory under its control, or jurisdiction, contrary to law, or receives, conceals, buys, sells, or in any manner facilitates the transportation, concealment, or sale of any such narcotic drug after being imported or brought in, knowing the same to have been imported contrary to law, or conspires to commit any of such acts in violation of the laws of the United States, shall be fined not more than \$2,000 and imprisoned not less than 2 or more than 5 years. For a second offense, the offender shall be fined not more than \$2,000 and imprisoned not less than 5 or more than 10 years. For a third or subsequent offense, the offender shall be fined not more than \$2,000 and imprisoned not less than 10 or more than 20 years. Upon conviction for a second or subsequent offense, the imposition or execution of sentence shall not be suspended and probation shall not be granted. For the purpose of this subsection, an offender shall be considered a second or subsequent offender, as the case may be, if he previously has been convicted of any offense the penalty for which is provided in this subsection or in section 2557 (b) (1) of the Internal Revenue Code, or if he previously has been convicted of any offense the penalty for which was provided in section 9, chapter 1, of the act of December 17, 1914 (38 Stat. 789), as amended; section 1, chapter 202 of the act of May 26, 1922 (42 Stat. 596), as amended; section 12, chapter 553, of the act of August 2, 1937 (50 Stat. 556), as amended; or section 2557 (b) (1) or 2596 of the Internal Revenue Code, as amended. After conviction, but prior to pronouncement of sentence, the court shall be advised by the United States attorney whether the conviction is the offender's first or a subsequent offense. If it is not a first offense, the United States attorney shall file an information setting forth the prior convictions. The offender shall have the opportunity in open court to affirm or deny that he is identical with the person previously convicted. If he denies the identity, sentence shall be postponed for such time as to permit a trial before a jury on the sole issue of the offender's identity with the person previously convicted. If the offender is found by the jury to be the person previously convicted, or if he acknowledges that he is such person, he shall be sentenced as prescribed in this subsection.

Whenever on trial for a violation of this subsection the defendant is shown to have or to have had possession of the narcotic drug, such possession shall be deemed sufficient evidence to authorize conviction unless the defendant explains the possession to the satisfaction of the jury.

(b) No master of any vessel or other watercraft, or person in charge of a railroad car or other vehicle, shall be liable under subsection (a) of this section if he satisfies the jury that he had no knowledge of and used due diligence to prevent the presence of the narcotic drug in or on such vessel, watercraft, railroad car, or other vehicle; but the narcotic drug shall be seized, forfeited, and disposed of as provided in sub-

sections (c) and (d) of section 763 of this title.

§ 766. Presumption and burden of proof as to importation of smoking opium

All smoking opium or opium prepared for smoking found within the United States shall be presumed to have been imported contrary to law, and the burden of proof shall be on the claimant or the accused to rebut such presumption.

§ 767. Exportation; exceptions; laws of foreign governments

(a) No person subject to the jurisdiction of the United States Government shall export or cause to be exported from the United States, or from territory under its control or jurisdiction, any narcotic drug to any other country except to a country which has ratified and become a party to the convention and final protocol between the United States Government and other powers for the suppression of the abuses of opium and other drugs, commonly known as the International Opium Convention of 1912, and then only if—

(1) such country has instituted and maintains in conformity with that convention, a system, which the Secretary deems adequate, of permits or licenses for the control of imports of such narcotic drugs;

(2) the narcotic drug is consigned to an authorized permittee; and

(3) there is furnished to the Secretary proof deemed adequate by him that the narcotic drug is to be applied exclusively to medical and scientific uses within the country to which exported, that it will not be reexported from such country, and that there is an actual shortage of and a demand for the narcotic drug for medical and scientific uses within such country.

(b) The exceptions contained in subsection (a) of this section shall not apply to smoking opium or opium prepared for smoking, the exportation of which is absolutely prohibited.

(c) The Secretary of State shall request all foreign governments to communicate through the diplomatic channels copies of the laws and regulations promulgated in their respective countries which prohibit or regulate the importation and shipment in transit of any narcotic drug and, when received, shall advise the Secretary thereof.

§ 768. Penalty for unlawful export

Any person who exports, or conspires to export, any narcotic drugs in violation of section 767 of this title shall be fined not more than \$5,000 or imprisoned not more than 2 years, or both.

§ 769. Penalty for having in possession or control on board United States vessel

(a) Any person who brings on board, or has in his possession or control on board, any vessel of the United States, while engaged on a foreign voyage, any narcotic drug not constituting a part of the cargo entered in the manifest or part of the ship stores, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

(b) As used in subsection (a) of this section, "narcotic drug" means any narcotic drug defined by section 761 of this title, or "marihuana" as defined in the Internal Revenue Code.

§ 770. Penalty for possession, receipt, or concealment of smoking opium; evidence; liability of masters and persons in charge

(a) Any person, subject to the jurisdiction of the United States, who, either as principal or as accessory, receives or has in his possession, or conceals on board of or transports on any foreign or domestic vessel or other water craft or railroad car or other vehicle

destined to or bound from the United States or any Possession thereof, any smoking opium or opium prepared for smoking, or who, having knowledge of the presence in or on any such vessel, water craft, or vehicle of such article, does not report the same to the principal officer thereof, shall be punished as provided in section 765 of this title. Whenever on trial for violation of this section the defendant is shown to have or to have had possession of such opium, such possession shall be deemed sufficient evidence to authorize conviction, unless the defendant shall explain the possession to the satisfaction of the jury.

(b) No master of a vessel or other water craft or person in charge of a railroad car or other vehicle shall be liable under this section if he satisfies the jury that he had no knowledge and used due diligence to prevent the presence of such article in or on such vessel, water craft, car, or other vehicle; but any such article shall be forfeited and destroyed.

§ 771. Share of fine to informer

One-half of any fine recovered from any person or persons convicted of an offense under this chapter may be paid to the person or persons giving information leading to such recovery, and one-half of any bail forfeited and collected in any proceedings brought under this chapter may be paid to the person or persons giving the information which led to the institution of such proceedings, if so directed by the court exercising jurisdiction in the case. No payment for giving information shall be made to any officer or employee of the United States.

§ 772. Short title

This chapter may be cited as the "Narcotic Drugs Import and Export Act."

Chapter 95—Domestic Opium Poppy Production Control

Sec.

811. Declaration of policy; assistance from Federal agencies.

812. Definitions.

813. Rules and regulations.

814. Licenses; qualifications; limitations; revocation and renewal.

815. Distribution by Federal Government; personnel of Treasury Department excepted from prohibitions.

816. Production, purchase, manufacture, sale, or transportation by unlicensed persons.

817. Seizure and forfeiture of opium poppies illegally possessed; disposition.

818. Penalties.

819. Pleading, presumptions, and burden of proof.

820. Application to, and of, other laws.

821. Territorial application.

822. Short title.

§ 811. Declaration of policy; assistance from Federal agencies

(a) It is the purpose of this chapter to—

(1) discharge more effectively the obligations of the United States under the International Opium Convention of 1912, and the Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs of 1931, as amended by the Protocol signed at Lake Success, N. Y., on December 11, 1946;

(2) promote the public health and the general welfare;

(3) regulate interstate and foreign commerce in opium poppies; and

(4) safeguard the revenue derived from taxation of opium and opium products.

(b) Other departments, bureaus, and independent establishments of the Government, when requested by the Secretary of the Treasury, shall furnish such assistance, including technical advice, as will aid in carrying out the purposes of this chapter.

§ 812. Definitions

As used in this chapter—

1. "produce" or "production" includes the planting, cultivation, growth, harvesting, and any other activity which facilitates the growth of the opium poppy;

2. "opium poppy" includes the plant *Papaver somniferum*, any other plant which is the source of opium or opium products, and any part of any such plant;

3. "opium" includes the inspissated juice of the opium poppy, in crude or refined form;

4. "opium products" includes opium and all substances obtainable from opium or the opium poppy, except the seed thereof;

5. "Secretary" means the Secretary of the Treasury;

6. "person" means an individual, company, partnership, corporation, or association.

§ 813. Rules and regulations

The Secretary may prescribe and publish all necessary rules and regulations for carrying out the provisions of this chapter.

§ 814. Licenses; qualifications; limitations; revocation and renewal

(a) Any person who desires to procure a license to produce the opium poppy, or to manufacture opium or opium products, shall make application therefor in such manner and form as the Secretary shall by rules and regulations prescribe.

(b) A license to produce the opium poppy shall be issued only to a person who, in the opinion of the Secretary, is determined to be a person—

(1) of good moral character;

(2) of suitable financial standing and farming experience;

(3) who owns or controls suitable farm land to be used as a production area, in such locality, as will, in the judgment of the Secretary, render reasonably probable the efficient and diligent performance of the operations of producing the opium poppy in appropriate number and quality; and

(4) who complies with such additional requirements as the Secretary shall deem and prescribe as reasonably necessary for the controlled production and distribution of the opium poppy.

Each such license shall be nontransferable and shall be valid only to the extent of the production area and maximum weight of opium poppy yield specified in the license, shall state the locality of the production area, and shall be effective for a period of 1 year from the date of issue and may be renewed, in the discretion of the Secretary, for a like period.

(c) A license to manufacture opium or opium products shall be issued only to a person who, in the opinion of the Secretary, is determined to be a person—

(1) of good moral character;

(2) who possesses a method and facilities, deemed satisfactory to the Secretary, for the efficient and economical extraction of opium or opium products;

(3) who has such experience in manufacturing and marketing other medicinal drugs as to render reasonably probable the orderly and lawful distribution of opium or opium products of suitable quality to supply medical and scientific needs; and

(4) who complies with such additional requirements as the Secretary shall deem and prescribe as reasonably necessary for the controlled production, manufacture, and distribution of the opium poppy, opium, or opium products.

Such license shall be nontransferable, shall state the maximum quantity of opium poppies purchasable or obtainable thereunder, and shall be effective for a period of 1 year from the date of issue and may be renewed, in the discretion of the Secretary, for a like period.

(d) All licenses issued under this section shall be limited to such number, localities, and areas as the Secretary shall determine to be appropriate to supply the medical and scientific needs of the United States for opium or opium products, with due regard to provision for reasonable reserves. Nothing contained in this section shall be construed as requiring the Secretary to issue or renew any license or licenses under the provisions hereof.

(e) The Secretary may revoke or refuse to renew any license issued under this section, if, after due notice and opportunity for hearing, he finds such action to be in the public interest, or finds that the licensee has failed to maintain the requisite qualifications.

§ 815. Distribution by Federal Government; personnel of Treasury Department excepted from prohibitions

(a) The Secretary, whenever in his opinion the medical and scientific needs of the Nation will not be met by importation or licensed production, shall provide for the acquisition of opium poppy seed, for the production of the opium poppy, for the manufacture of opium or opium products, and for the use, sale, giving away, or other proper distribution of opium poppy seed, opium poppies, opium, or opium products by the United States Government either directly or through and with the approval of the head of any agency of the Government, including any Government-owned or controlled corporation.

(b) None of the prohibitions contained in this chapter shall apply to any officer or employee of the United States Treasury Department, who in the performance of his official duties and within the scope of his authority engages in any of the businesses or activities herein described, nor to any other officer or employee of the United States Government, who in the performance of his official duties, within the scope of his authority and with the approval of the Secretary, engages in any of the businesses or activities herein described.

§ 816. Production, purchase, manufacture, sale or transportation by unlicensed persons

(a) No person who is not the holder of a proper license authorizing him to produce the opium poppy, duly issued to him by the Secretary, shall produce or attempt to produce the opium poppy, or permit the production of the opium poppy in or upon any place owned, occupied, used, or controlled by him.

(b) Except as otherwise provided in subsection (e) of this section, no person shall—

(1) purchase or in any other manner obtain the opium poppy, unless he is the holder of a proper license to produce the opium poppy or to manufacture opium or opium products, duly issued to him by the Secretary; or

(2) sell, transfer, convey any interest in, or give away the opium poppy to any person not so licensed.

(c) No person who is not the holder of a proper license authorizing him to manufacture opium or opium products, duly issued to him by the Secretary, shall manufacture, compound, or extract opium or opium products from the opium poppy.

(d) No person who is not the holder of a proper license authorizing him to produce the opium poppy or to manufacture opium or opium products, duly issued to him by the Secretary, shall send, ship, carry, transport, or deliver any opium poppies within any State, Territory, the District of Columbia, the Canal Zone, or insular possession of the United States, or from any State, Territory, the District of Columbia, the Canal Zone, or insular possession of the United States, into any other State, Territory, the District of Columbia, the Canal Zone, or in-

sular possession of the United States. Nothing contained in this subsection shall apply to any common carrier engaged in transporting opium poppies pursuant to an agreement with a person duly licensed under section 814 of this title as a producer of the opium poppy, or as a manufacturer of opium or opium products, or to any employee of any person so licensed while acting within the scope of his employment.

(e) No person shall sell, transfer, convey any interest in, or give away, except to a person duly licensed under section 814 of this title, opium poppy seed for the purpose of opium poppy production, nor shall any unlicensed person purchase or otherwise obtain such seed for such purpose; but the seed obtained from opium poppies produced by licensed producers may be sold or transferred by such producers to unlicensed persons, and may thereafter be resold or transferred, for ultimate consumption as a spice seed or for the manufacture of oil.

§ 817. Seizure and forfeiture of opium poppies illegally possessed; disposition

(a) Any opium poppies produced or otherwise obtained in violation of any of the provisions of this chapter shall be seized by, and forfeited to, the United States.

(b) The failure, upon demand by the Secretary, or his duly authorized agent, of the person in occupancy or control of land or premises upon which opium poppies are being produced or stored to produce an appropriate license, or proof that he is the holder thereof, shall constitute authority for the seizure and forfeiture of such opium poppies.

(c) The Secretary, or his duly authorized agent, shall have authority to enter upon any land (but not a dwelling house, unless pursuant to a search warrant issued according to law) where opium poppies are being produced or stored, for the purposes of enforcing the provisions of this chapter.

(d) Any opium poppies, the owner or owners of which are unknown, seized by or coming into the possession of the United States in the enforcement of this chapter shall be forfeited to the United States.

(e) The Secretary shall destroy any opium poppies seized by, and forfeited to, the United States under this section, or deliver them for medical or scientific purposes to any department, bureau, or other agency of the United States Government, upon proper application therefor under such regulations as he may prescribe.

§ 818. Penalties

(a) Any person who violates any provision of this chapter shall be fined not more than \$2,000 or imprisoned not more than 5 years, or both.

(b) Any person who willfully makes, aids, or assists in the making of, or procures, counsels, or advises in the preparation or presentation of, a false or fraudulent statement in any application for a license under the provisions of section 814 of this title shall (whether or not such false or fraudulent statement is made by or with the knowledge or consent of the person authorized to present the application) be fined not more than \$2,000 or imprisoned not more than 1 year, or both.

§ 819. Pleading, presumptions, and burden of proof

It shall not be necessary to negative any exemptions set forth in this chapter in any complaint, information, indictment, or other writ or proceeding laid or brought under this chapter and the burden of proof of any such exemption shall be upon the defendant. In the absence of the production of an appropriate license by the defendant, he shall be presumed, not to have been duly licensed in accordance with section 814 of this title

and the burden of proof shall be on the defendant to rebut such presumption.

§ 820. Application to, and of, other laws

Nothing in this chapter shall be construed to repeal any provisions of the Internal Revenue Code, but nothing in that code shall apply to the production, sale, or transfer of opium poppies, when such opium poppies are lawfully produced, sold, or transferred by persons duly and properly licensed under section 814 of this title in conformity with the regulations issued pursuant to such section.

§ 821. Territorial application

The provisions of this chapter shall apply to the several States, the District of Columbia, the Territory of Alaska, the Territory of Hawaii, the Canal Zone, Puerto Rico, and the other insular possessions of the United States.

§ 822. Short title

This chapter may be cited as the Opium Poppy Control Act.

SEC. 2. Section 1 of the act approved May 29, 1884 (ch. 60, 23 Stat. 31; 7 U. S. C., sec. 391), as amended, is amended to read as follows:

"SEC. 1. There shall be in the Department of Agriculture a Bureau of Animal Industry. The Secretary of Agriculture is authorized to appoint a chief thereof, who shall be a competent veterinary surgeon. The functions of the Bureau of Animal Industry shall be vested in the Secretary of Agriculture or, subject to his direction and control, in such officers and agencies of the Department of Agriculture as he may designate. Such functions shall include the duty to investigate and report upon the condition of the domestic animals and poultry of the United States, their protection and use, and also to inquire into and report the causes of communicable diseases among them, and the means for the prevention and cure of the same, and to collect such information on these subjects as shall be valuable to the agricultural and commercial interests of the country."

SEC. 3. The first paragraph of section 1 of the act approved March 28, 1928 (ch. 266, 45 Stat. 374; 41 U. S. C., sec. 529a), as amended, is amended (1) by striking out "Division of Disbursement", as now appearing in such paragraph, and, in lieu thereof, inserting "Fiscal Service"; and (2) by striking out, after the first semicolon, "the act entitled 'An act to amend an act entitled "and act to prohibit the importation and use of opium for other than medicinal purposes", approved February 9, 1909', as amended, known as the 'Narcotic Drugs Import and Export Act'", and inserting in lieu thereof "chapter 93 of title 21, United States Code."

SEC. 4. (a) Subsection (a) of section 302 of the act approved July 1, 1944 (ch. 373, title III, 58 Stat. 692; 42 U. S. C., sec. 242) is amended by striking out the reference "the Narcotic Drugs Import and Export Act, as amended," appearing at the end of such subsection and inserting in lieu thereof "chapter 93 of title 21, United States Code."

(b) Subsection (d) of section 7 of the act approved August 9, 1939 (ch. 618, 53 Stat. 1293; 49 U. S. C., sec. 787 (d)), as amended, is amended by striking out the reference "the Narcotic Drugs Import and Export Act," appearing in such subsection.

SEC. 5. The opening clause of subsection (f) of section 15 of the Federal Trade Commission Act (15 U. S. C., sec. 55 (f)), as amended, which subsection was added to such section 15 by section 4 (b) of the act approved March 16, 1950 (ch. 61, 64 Stat. 21), is amended by striking out "and section 407 of the Federal Food, Drug, and Cosmetic Act, as amended."

SEC. 6. If any part of title 21, United States Code, as set out in section 1 of this act, shall be held invalid, the remainder of such title shall not be affected thereby.

SEC. 7. No inference of a legislative construction is to be drawn by reason of the chapter in title 21, United States Code, as set out in section 1 of this act, in which any section is placed, nor by reason of the catch-lines used in such title.

SEC. 8. All orders, rules, and regulations in effect on the effective date of this act, which were adopted under the authority of the acts of Congress from which title 21, United States Code, as set out in section 1 of this act, is derived, shall continue in effect until modified, amended, superseded, or repealed under the authority of such title.

SEC. 9. There are authorized to be appropriated such sums as may be necessary to

carry out the provisions of title 21, United States Code, as set out in section 1 of this act.

SEC. 10. The provisions of this act shall take effect on January 1, 1955.

SEC. 11. The sections or parts thereof of the Statutes at Large enumerated in the following schedule are hereby repealed. Any rights or liabilities now existing under such sections or parts thereof shall not be affected by this repeal.

Statutes at Large						U. S. Code	
Date	Chapter	Title	Section	Volume	Page	Title	Section
1884—May 29.....	60	-----	2, 3, 4, 5, 6, 7, 8, 9.....	23	31-33	21	112, 113, 114, 117-120, 130.
Do.....	60	-----	10.....	23	33	7	391 note.
1887—Feb. 23.....	210	-----	1, 2, 3.....	24	409	21	112 note.
1890—Aug. 30.....	839	-----	1, 2, 3.....	26	414, 415	21	191-193.
Do.....	839	-----	4, 6, 7, 8, 9, 10.....	26	415-417	21	1 note, 71 note.
1897—Mar. 2.....	358	-----	1, 2, 3, 4, 5, 6, 7, 8, 9, 10.....	29	604-607	21	18, 101-105.
1902—May 9.....	784	-----	1.....	32	193	21	41-46, 47-50.
July 1.....	1357	-----	1, 2.....	32	632	21	25.
1903—Feb. 2.....	349	-----	1, 2, 3.....	32	791, 792	21	16, 17.
1905—Mar. 3.....	1496	-----	1, 2, 3.....	33	1264, 1265	21	111, 112, 113, 120-122.
1906—June 30.....	3913 (part)	-----	1, 2, 3, 4, 6.....	33	1264, 1265	21	123-127.
1907—Mar. 4.....	2907 (part)	-----	-----	34	1 679	21	95.
1908—May 16.....	170	-----	-----	34	2 1260-1265	21	71-92.
May 23.....	192 (part)	-----	-----	35	163	21	41.
1909—Feb. 9.....	100	-----	1, 2, 3, 4, 5, 6, 7, 8, 9.....	35	254	21	94a.
1910—May 26.....	256 (part)	-----	-----	36	614	21	171-173, 174, 176-184, 185.
1913—Mar. 4.....	145 (part)	-----	-----	36	440	21	131.
1914—June 30.....	131 (part)	-----	-----	37	832, 833	21	151-158.
Do.....	131 (part)	-----	-----	38	419	21	128.
1915—Mar. 3.....	74	-----	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13.....	38	420	21	94.
Mar. 4.....	144 (part)	-----	-----	38	817-822	21	201-215.
1917—Aug. 10.....	52	-----	9.....	40	1102	21	24.
1918—Nov. 21.....	212	-----	3.....	40	275	21	106, 107.
1919—July 24.....	26 (part)	-----	-----	40	1048, 1049	21	106, 107.
Do.....	26 (part)	-----	-----	41	241	21	96.
1920—May 31.....	217 (part)	-----	-----	41	271	21	321b.
Do.....	217 (part)	-----	-----	41	699	21	116.
1923—Mar. 4.....	262	-----	1, 2, 3.....	41	712, 713	21	41-44, 46-50.
Do.....	262	-----	4 14.....	42	1486, 1487	21	61-63.
Do.....	268	-----	-----	42	1500	21	64.
1926—June 28.....	700	-----	1, 2.....	44	774, 775	21	321a.
1927—Jan. 18.....	39 (part)	-----	-----	44	984	21	104, 115, 115 note.
Feb. 15.....	155	-----	1, 2, 3, 4, 5, 6, 7, 8, 9.....	44	1101-1103	21	26.
Mar. 4.....	489	-----	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12.....	44	1406-1410	15	141-149.
1928—Feb. 7.....	30	-----	-----	45	59	7	401-409, 409 note, 410, 411.
May 16.....	572 (part)	-----	-----	45	548	21	391.16
1929—Feb. 16.....	22 (part)	-----	-----	45	1198	21	111-115, 117-126, 128, 130.
1930—June 14.....	488	-----	6, 7, 8.....	46	587	21	26.
July 3.....	829	-----	-----	46	850	21	173a, 197, 198.
1931—Feb. 28.....	348	-----	-----	46	1460	21	199.
1934—June 22.....	712	-----	2 19.....	48	1204	21	104.
June 26.....	756	-----	-----	48	1225	21	372a.
1935—Aug. 27.....	739	-----	All.....	49	871	21	95.
1938—June 25.....	675	-----	-----	52	1040-1059	21	372a.
June 29.....	810	-----	-----	52	1235	21	301, 321, 321a, 321b, 331-337, 341-346,
1939—May 2.....	107	I.....	1 (part).....	53	631	21	351-357, 361-364, 371, 372, 372a,
June 23.....	242	-----	1, 2, 3.....	53	853, 854	21	373-376, 381, 391, 392, and notes there-
1940—June 27.....	437	I.....	101 (part).....	54	632	21	under, and notes preceding 61, 141.
1941—July 1.....	269	II (part).....	1, 2.....	55	478	21	91.
July 11.....	289	-----	1, 2, 3, 4.....	55	584	21	376 note.
Dec. 22.....	613	-----	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17.....	55	851, 852	21	342 note, 343 note, 351 note, 352, 352
1942—Dec. 11.....	720	-----	-----	56	1045-1049	21	note, 361 note, 362 note.
1943—July 12.....	221	II.....	1 (part).....	57	500	21	46a.
1944—Mar. 2.....	77	-----	101(a).....	58	108	21	46a.
1944—Sept. 21.....	412	I.....	1, 2, 3.....	58	734	21	184a, 184a note.
1945—July 6.....	281	-----	1, 2, 3, 4.....	59	463, 464	21	331, 352, 357.
1947—Feb. 28.....	8	-----	1, 2, 3.....	61	7, 8	21	114b, 114b note, 114c, 114d.
Mar. 10.....	16	-----	1, 2, 3.....	61	11, 12	21	331, 352, 357.
July 30.....	356	I.....	1 (part).....	61	531, 532	21	97, 97a, 97b, 97c, 97d.
1948—Apr. 24.....	229	-----	-----	62	198	21	113a.
June 5.....	423	-----	1, 2.....	62	344	21	98.
June 16.....	477	-----	1, 2.....	62	458	21	114e, 114f.
June 24.....	613	-----	5.....	62	582	21	331, 334.
June 25.....	646	-----	101 (part).....	62	986	21	193.
1949—June 29.....	280	I.....	1, 2.....	63	331	21	352, 357.
July 13.....	305	-----	1, 2, 3.....	63	409, 410	21	381.
Oct. 18.....	696	-----	3, 6.....	64	20, 22	21	331, 342, 347, 347a, 347b.
1950—Mar. 16.....	61	-----	1, 2, 3.....	65	648, 649	21	333, 333 note, 353, 353 note.
1951—Oct. 26.....	578	-----	1, 2.....	65	693, 694	21	114a, 114a-1.
Oct. 30.....	637	-----	-----	65	767, 768	21	174.
Nov. 2.....	666	-----	-----	65	-----	21	-----

Footnotes at end of table.

Statutes at Large						U. S. Code	
Dato	Chapter	Title	Section	Volume	Page	Title	Section
1953—Aug. 5.....	334	-----	1, 2.....	67	389	21	352, 357.
Aug. 7.....	350	-----	1, 2, 3.....	67	476, 477	21	331, 334, 374.
Aug. 8.....	381	-----	-----	67	493, 494	21	114a.
Do.....	394	-----	8.....	67	506	21	171.
1954—Apr. 15.....	143	-----	1, 2.....	68	54, 55	21	341, 371.

¹ Only the second full paragraph on this page, of which the first sentence was classified to the United States Code, 1946 ed., as sec. 95 of title 21 thereof, and the remainder was not classified to such code.

² Commencing with the paragraph headed "For meat inspection," on p. 1260, and continuing on to the bottom of such page, inclusive; all that appears on pp. 1261, 1262, 1263, and 1264, including the paragraph which commences on p. 1264 and ends on p. 1265; and the first full paragraph on p. 1265.

³ Only the proviso which commences near the bottom of this page, and ends on p. 255 with the word "certified."

⁴ As amended by acts Jan. 17, 1914, ch. 9, 38 Stat. 275-277; May 26, 1922, ch. 202, §§ 1-4, 42 Stat. 596-598; June 7, 1924, ch. 352, 43 Stat. 657; July 1, 1944, ch. 377, § 8, 58 Stat. 721; Mar. 8, 1946, ch. 81, § 7, 60 Stat. 39; Nov. 2, 1951, ch. 666, §§ 1, 5 (1), 65 Stat. 767, 769; June 27, 1952, ch. 477, § 403 (a) (10), 66 Stat. 279.

⁵ Only the third paragraph under the heading "Miscellaneous" appearing on this page.

⁶ All of the paragraph commencing on p. 832, "That from and after July first", and ending on page 833, except the final sentence of such paragraph, commencing, "That there is hereby appropriated."

⁷ Only the first proviso appearing on this page.

⁸ Only the proviso in the paragraph commencing, "Meat inspection, Bureau of Animal Industry", and appearing on this page.

⁹ Only the proviso appearing on this page.

¹⁰ All of the paragraph beginning "Meat inspection, Bureau of Animal Industry", appearing on this page except the first sentence thereof.

¹¹ All of the fourth full paragraph appearing on this page.

¹² Only the last 2 provisos in the paragraph which begins on p. 698 and ends on p. 699, said 2 provisos appearing on p. 699.

¹³ All of the paragraph which begins on p. 712 and ends on p. 713, except the final sentence of such paragraph.

¹⁴ As added by act Aug. 27, 1935, ch. 743, 49 Stat. 885.

¹⁵ Only the proviso in the paragraph headed "Meat inspection", appearing on this page.

¹⁶ The amendments made by the act of Feb. 7, 1928, ch. 30, to section 1 of act May 29, 1884, ch. 60 (23 Stat. 31; 7 U. S. C., sec. 391), are also repealed, but such repeal shall not be construed as repealing such sec. 1 of the act of 1884 (7 U. S. C., sec. 391) which, as amended by another section of this act, shall remain in full force and effect.

¹⁷ The first proviso appearing on this page.

¹⁸ The proviso in the paragraph headed "Meat inspection," appearing on this page.

¹⁹ Only that part of this section which amends that part of act June 30, 1906, ch. 3913, 34 Stat. 679, relating to a permanent appropriation for the inspection of cattle, sheep, swine, and goats and the meat and meat food products thereof, and expenses incidental to such inspection, including the proviso in subsec. (a), and item (3) of subsec. (h), of such sec. 2.

²⁰ In the paragraph beginning on page 631 and ending on page 632, only the words reading, "which section is hereby made immediately effective" appearing on page 631.

²¹ Only the proviso in the paragraph headed "Food and Drug Administration", appearing on this page.

²² Only the proviso in the paragraph beginning "Enforcement of Tea Importation Act," appearing on this page.

²³ Only the following words in the second paragraph appearing on this page: "which may hereafter be cited as section 702A of the Federal Food, Drug, and Cosmetic Act."

²⁴ All of the paragraph beginning "Meat inspection:", which commences on page 531 and ends on page 532.

²⁵ The two provisos in the last paragraph on this page.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REVISION OF TITLE 13, UNITED STATES CODE

The Clerk called the bill (H. R. 9729) to revise, codify, and enact into law title 13, of the United States Code, entitled "Census."

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. REES of Kansas. Mr. Speaker, reserving the right to object, I would like to inquire of the author of this bill with respect to section 10 of the bill which requires the Postmaster General to transmit free of postage matters relating to the census. The law now requires the departments and agencies to reimburse the Post Office Department for the transmission of official Government mail matter. Is that provision changed in any way?

Mr. McCULLOCH. Mr. Speaker, if the gentleman will yield, I am glad to answer the question with an unequivocal "No." There was no intention on the part of the author of this bill or on the part of any member of the Committee on the Judiciary to make any change in the existing law of the land.

Mr. REES of Kansas. I withdraw my reservation of objection, Mr. Speaker.

The SPEAKER. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That title 13 of the United States Code, entitled "Census," is revised, codified, and enacted into law, and may be cited as "Title 13, United States Code, section—", as follows:

TITLE 13—CENSUS

Chapter	Sec.
1. Administration.....	1
3. Collection and publication of statistics.....	41
5. Censuses.....	131
7. Offenses and penalties.....	211

CHAPTER 1—ADMINISTRATION

Subchapter I—General provisions

Sec.
1. Definitions.
2. Bureau of the Census.
3. Seal.
4. Functions of Secretary; delegation.
5. Schedules; number, form, and scope of inquiries.
6. Requests to other departments and offices for information.
7. Printing; requisitions upon Public Printer; publication of bulletins and reports.
8. Certified copies of certain returns; other data; restriction on use; disposition of fees received.
9. Information as confidential; exception.
10. Mail matter.
11. Authorization of appropriations.

Subchapter II—Officers and employees

21. Director of the Census; duties.
22. Qualifications of permanent personnel.
23. Additional officers and employees.
24. Special agents, supervisors, supervisors' clerks, enumerators, and interpreters; compensation; details.
25. Duties of supervisors, enumerators, and other employees.

SUBCHAPTER I—GENERAL PROVISIONS

§ 1. Definitions
As used in this title, unless the context requires another meaning, or unless it is otherwise provided—
"Bureau" means the Bureau of the Census;
"Secretary" means the Secretary of Commerce.
§ 2. Bureau of the Census
The Bureau is continued as an agency within, and under the jurisdiction of, the Department of Commerce.

§ 3. Seal

The Bureau shall have a seal containing such device as has been selected heretofore, or as the Secretary may select hereafter. A description of such seal with an impression thereof shall be filed in the office of the Secretary of State. The seal shall remain in the custody of the Secretary or such officer or employee of the Bureau as he designates, and shall be affixed to all certificates and attestations that may be required from the Bureau.

§ 4. Functions of Secretary; delegation

The Secretary shall perform the functions and duties imposed upon him by this title or he may delegate any of them to such officers, employees, bureaus or agencies of the Department of Commerce as he designates.

§ 5. Schedules; number, form, and scope of inquiries

The Secretary shall prepare schedules, and shall determine the inquiries, and the number, form, and subdivisions thereof; for the statistics, surveys, and censuses provided for in this title.

§ 6. Requests to other departments and offices for information

The Secretary, whenever he deems it advisable, may call upon any other department or office of the Government for information pertinent to the work provided for in this title.

§ 7. Printing; requisitions upon Public Printer; publication of bulletins and reports

The Secretary may make requisition upon the Public Printer for miscellaneous printing necessary to carry out the provisions of this title. He may further have printed by the Public Printer, in such editions as he deems necessary, preliminary and other census bulletins, and final reports of the results of the several investigations authorized by this title, and may publish and distribute such bulletins and reports.

§ 8. Certified copies of certain returns; other data; restriction on use; disposition of fees received

(a) The Secretary may, at his discretion, upon the written request of the governor

of any State or Territory or of a court of record, furnish such governor or court of record with certified copies of so much of the population, agriculture, and housing schedules prepared under the authority of subchapter II of chapter 5 of this title as may be requested, upon the payment of the actual or estimated cost of searching the records and \$1 for certification.

(b) The Secretary may furnish to individuals such data from the population and housing schedules as may be desired for genealogical or other proper purposes, upon payment of the actual cost of searching the records and \$1 for supplying a certificate.

(c) In no case shall information furnished under the authority of this section be used to the detriment of the persons to whom such information relates.

(d) All moneys received by the Department of Commerce or any bureau or agency thereof in payment for the work covered by this section shall be deposited to the credit of an appropriation for collecting statistics.

§ 9. Information as confidential; exception

(a) Neither the Secretary, nor any other officer or employee of the Department of Commerce or bureau or agency thereof, may, except as provided in section 8 of this title—

(1) use the information furnished under the provisions of this title for any purpose other than the statistical purposes for which it is supplied; or

(2) make any publication whereby the data furnished by any particular establishment or individual under this title can be identified; or

(3) permit anyone other than the sworn officers and employees of the Department or bureau or agency thereof to examine the individual reports.

(b) The provisions of subsection (a) of this section relating to the confidential treatment of data for particular individuals and establishments, shall not apply to the censuses of governments provided for by subchapter III of chapter 5 of this title, nor to interim current data provided for by subchapter IV of chapter 5 of this title as to the subjects covered by censuses of governments, with respect to any information obtained therefor that is compiled from, or customarily provided in, public records.

§ 10. Mail matter

The Post Office Department shall transmit free of postage, and by registered mail if necessary, and so marked, all mail matter, of whatever class or weight, relating to any collection of statistics, survey, or census provided for by this title and addressed to the Department of Commerce or to any bureau or agency thereof authorized by the Secretary to make such collection or survey or to take such census, or addressed to any official thereof, and endorsed "Official business," followed by the name of such Department, bureau, or agency, as the case may be.

§ 11. Authorization of appropriations

There is authorized to be appropriated, out of the Treasury of the United States, such sums as may be necessary to carry out all provisions of this title.

SUBCHAPTER II—OFFICERS AND EMPLOYEES

§ 21. Director of the census; duties

The Bureau shall be headed by a Director of the Census, appointed by the President, by and with the advice and consent of the Senate. The Director shall perform such duties as may be imposed upon him by law, regulations, or orders of the Secretary.

§ 22. Qualifications of permanent personnel

All permanent officers and employees of the Bureau shall be citizens of the United States, and shall be appointed and compensated under the civil service laws and the Classification Act of 1949, as amended or supplemented.

§ 23. Additional officers and employees

(a) The Secretary may appoint, without regard to the Classification Act of 1949, at rates of compensation to be fixed by him, as many temporary employees in the Departmental Service as may be necessary to meet the requirements of the work provided for in this title. Census employees who are transferred to any such temporary positions shall not lose their permanent civil service status by reason of the transfer. The Secretary shall make all such temporary appointments in conformity with the civil service laws and rules.

(b) In addition to employees of the Department of Commerce, employees of other departments and independent offices of the Government may, with the consent of the head of the respective department or office, be employed and compensated for field work in connection with the work provided for in this title.

§ 24. Special agents, supervisors, supervisors' clerks, enumerators, and interpreters; details

(a) The Secretary may appoint special agents, supervisors, supervisors' clerks, enumerators, and interpreters on a temporary basis to carry out the provisions of this title. Such appointments shall be made without regard to the civil-service laws or the Classification Act of 1949. The enlisted men and officers of the armed services may be appointed and compensated for the enumeration of personnel of the Armed Forces.

(b) The special agents, supervisors, supervisors' clerks, enumerators, and interpreters appointed under this section shall receive compensation at rates fixed by the Secretary; and the compensation on a piece-price basis may be fixed without limitation as to the amount earned per diem.

(c) The Secretary may authorize the expenditure of necessary sums for travel expenses for attendance at training courses held by the Department of Commerce with respect to any of the work provided for in this title.

§ 25. Duties of supervisors, enumerators, and other employees

(a) Each supervisor shall perform the duties imposed upon him by the Secretary in the enforcement of chapter 5 of this title in accordance with the Secretary's orders and instructions.

(b) Each enumerator or other employee detailed to serve as enumerator shall be charged with the collection in his subdivision of the facts and statistics called for on such schedules as the Secretary determines shall be used by him in connection with any census or survey provided for by chapter 5 of this title.

(c) Each enumerator shall visit personally each dwelling house in his subdivision, and each family therein, and each individual living out of a family in any place of abode, and by inquiry made of the head of each family, or of the member thereof deemed most competent and trustworthy, or of such individual living out of a family, shall obtain every item of information and all particulars required for any census or survey provided for in chapter 5 of this title. In case no person is found at the usual place of abode of such family, or individual living out of a family, competent to answer the inquiries, the census employee may obtain the required information as nearly as may be practicable from the families or persons living nearest to such place of abode who may be competent to answer such inquiries.

CHAPTER 3—COLLECTION AND PUBLICATION OF STATISTICS

Subchapter I—Cotton

Sec.

41. Collection and publication.

42. Contents of reports; number of bales of linter; distribution; publication by Department of Agriculture.

43. Records and reports of cotton ginner.

44. Foreign cotton statistics.

45. Simultaneous publication of cotton reports.

Subchapter II—Oilseeds, nuts, and kernels; fats, oils, and greases

61. Collection and publication.

62. Additional statistics.

63. Duplicate collection of statistics prohibited; access to available statistics.

Subchapter III—Miscellaneous

101. Defective, dependent, and delinquent classes; crime.

102. Religion.

103. Designation of reports.

Subchapter I—Cotton

§ 41. Collection and publication

The Secretary shall collect and publish statistics concerning the—

- (1) amount of cotton ginned;
- (2) quality of raw cotton consumed in manufacturing establishments of every character;
- (3) quantity of baled cotton on hand;
- (4) number of active consuming cotton spindles;
- (5) number of active spindle hours; and
- (6) quantity of cotton imported and exported, with the country of origin and destination.

§ 42. Contents of reports; number of bales of bales of linter; distribution; publication by Department of Agriculture

(a) The statistics of the quantity of cotton ginned shall show the quantity ginned from each crop prior to August 1, August 16, September 1, September 16, October 1, October 18, November 1, November 14, December 1, December 13, January 16, and March 1; but the Secretary may limit the canvasses of August 1 and August 16 to those sections of the cotton-growing States in which cotton has been ginned.

(b) The quantity of cotton consumed in manufacturing establishments, the quantity of baled cotton on hand, the number of active consuming cotton spindles, the number of active spindle-hours, and the statistics of cotton imported and exported shall relate to each month, and shall be published as soon as possible after the close of the month.

(c) In collecting and publishing statistics of cotton on hand in warehouses and other storage establishments, and of cotton known as the "carry-over" in the United States, the Secretary shall ascertain and publish as a separate item in the report of cotton statistics the number of bales of linters as distinguished from the number of bales of cotton.

(d) The Secretary shall furnish to the Department of Agriculture, immediately prior to the publication of each report of that Department regarding the cotton crop, the latest available statistics hereinbefore mentioned, and the Department of Agriculture shall publish the same in connection with each of its reports concerning cotton.

§ 43. Records and reports of cotton ginner

Every cotton ginner shall keep a record of the county or parish in which each bale of cotton ginned by him is grown and report at the March canvass of each year a segregation of the total number of bales ginned by counties or parishes in which grown.

§ 44. Foreign cotton statistics

In addition to the information regarding cotton in the United States provided for in this subchapter, the Secretary shall compile, by correspondence or the use of published reports and documents, any available information concerning the production, consumption, and stocks of cotton in foreign countries, and the number of cotton-con-

83^d CONGRESS
2^d SESSION

H. R. 9728

IN THE SENATE OF THE UNITED STATES

JULY 7 (legislative day, JULY 2), 1954

Read twice and referred to the Committee on the Judiciary

AN ACT

To revise, codify, and enact into law, title 21 of the United States Code, entitled "Food, Drugs, and Cosmetics".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 21 of the United States Code, entitled "Food, Drugs, and Cosmetics", is hereby revised, codified, and enacted into law, and may be cited as "Title 21, United States Code, § —", as follows :

TITLE 21—FOOD, DRUGS, AND COSMETICS

PART	Sec.
I. FOOD AND DRUGS GENERALLY.....	1
II. ANIMALS, POULTRY AND MEATS.....	451
III. NARCOTICS	711

PART I—FOOD, DRUGS, AND COSMETICS GENERALLY

CHAPTER	Sec.
1. FOOD AND DRUG ADMINISTRATION.....	1
3. FOOD, DRUGS, AND COSMETICS.....	41
5. MILK AND CREAM.....	201
7. TEA IMPORTATION	261
9. CAUSTIC POISONS.....	311

CHAPTER 1—FOOD AND DRUG ADMINISTRATION

Sec.
1. Establishment.
2. Functions of Secretary of Health, Education, and Welfare.
3. Board of Tea Experts.
4. Board of Tea Appeals.

§ 1. Establishment

The Food and Drug Administration shall continue as a constituent organization of the Department of Health, Education, and Welfare.

§ 2. Functions of Secretary of Health, Education, and Welfare

The Secretary of Health, Education, and Welfare shall perform the functions prescribed for him under Part I of this title, and may from time to time make such provisions as he deems appropriate authorizing the performance of any of the functions of the Secretary by any other officer, or by any agency or employee, of the Department.

§ 3. Board of Tea Experts

Before February 16 of each year, the Secretary of Health, Education, and Welfare shall appoint a Board of Tea Experts of seven members who are experts in teas, for a term of one year subject to removal by the Secretary. The Secretary shall fill vacancies by appointment for an unexpired term.

The Board shall appoint a presiding officer, who shall be the medium of all communications to or from the Board. Each member of the Board shall receive as compensation the sum of \$50 per annum, and necessary expenses in connection with his duties under this title, to be paid by the Secretary of Health, Education, and Welfare.

§ 4. Board of Tea Appeals

The United States Board of Tea Appeals shall consist of three employees of the Department of Health, Education, and Welfare designated by the Secretary of Health, Education, and Welfare.

CHAPTER 3—FOOD, DRUGS, AND COSMETICS

SUBCHAPTER I—DEFINITIONS, DETERMINATIONS, AND REPRESENTATIONS

Sec.

41. Definitions.
42. Determination of misbranding.
43. Representation as antiseptic.
44. Short title.

SUBCHAPTER II—FOOD

51. Definitions and standards for food; procedure governing establishment; objections; hearings; applicability of other provisions.
52. Adulterated food.
53. Misbranded food.
54. Exemptions.
55. Tolerances for poisonous ingredients; certification of coal-tar colors for foods.
56. Emergency permit control.
57. Sea food; examination on request of packer; fees.
58. Colored oleomargarine; Congressional finding as to sale or serving.
59. Colored oleomargarine; sale in State where produced; packaging and labeling; service in restaurants.
60. Oleomargarine, butterine, imitation butter or cheese; application of State laws.
61. Exemption of meats and meat food products.

SUBCHAPTER III—DRUGS AND DEVICES

- 71. Adulterated drugs and devices.
- 72. Misbranded drugs and devices.
- 73. Exemptions.
- 74. Certification of coal-tar colors for drugs
- 75. New drugs.
- 76. Certification of drugs containing insulin.
- 77. Certification of drugs containing certain antibiotics.

SUBCHAPTER IV—COSMETICS

- 91. Adulterated cosmetics.
- 92. Misbranded cosmetics.
- 93. Exemptions.
- 94. Certification of coal-tar colors for cosmetics.

SUBCHAPTER V—IMPORTS AND EXPORTS

- 111. Examination and refusal of imports.
- 112. Exports adulterated or misbranded.
- 113. Suspension of adulterated imports.

SUBCHAPTER VI—ADMINISTRATIVE PROVISIONS

- 131. Regulations; hearings; judicial review.
- 132. Examinations and investigations.
- 133. Records of interstate shipment.
- 134. Factory inspection notice; reports; receipts for samples; copies of analyses.
- 135. Publicity.
- 136. Cost of certification of coal-tar colors.
- 137. Revision of Pharmacopeia; development of analyses and tests.

SUBCHAPTER VII—ENFORCEMENT AND PENALTIES

- 151. Prohibited acts.
- 152. Penalties; exemptions.
- 153. Injunctions.
- 154. Libel for condemnation.
- 155. Hearing before violation reported.
- 156. Report of minor violations.
- 157. Proceedings in name of United States; subpoenas.

SUBCHAPTER I—DEFINITIONS, DETERMINATIONS,
REPRESENTATIONS, AND SHORT TITLE

§ 41. Definitions

As used in this chapter—

(a) "Secretary" means the Secretary of Health, Education, and Welfare.

(b) "Department" means the Department of Health, Education, and Welfare.

(c) "Butter" means the food product usually known as butter, and which is made exclusively from milk or cream, or both, with or without common salt, and with or without additional coloring matter, and containing not less than 80 per centum by weight of milk fat, all tolerances having been allowed for.

(d) "Cosmetic" means articles other than soap, (1) intended to be applied to or introduced into the human body for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) intended for use as a component of any such articles.

(e) "Device", except when used in sections 42, 53 (f), 72 (c), 92 (c), and 151 (i) of this title, means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended (1) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or (2) to affect the structure or any function of the body of man or other animals.

(f) "Drug" means (1) articles recognized in an official compendium; and (2) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (3) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and (4) articles intended for use as a component of any article specified in clauses (1), (2), or (3) of this paragraph; but does not include devices or their components, parts, or accessories.

(g) "Food" means (1) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article.

(h) "Interstate commerce" means (1) commerce between any State or Territory and any place outside thereof, and (2) commerce within the District of Columbia or within any other Territory not organized with a legislative body.

(i) "Label" means a display of written, printed, or graphic matter upon the immediate container other than a package liner, of any article; and a requirement made by or under authority of this chapter that any word, statement, or other information appear on the label shall not be considered to be complied with unless it also appears on or is easily legible through the outside container or wrapper, if any there be, of the retail package of such article.

(j) "Labeling" means all labels and other written, printed, or graphic matter (1) upon any article or any of its containers or wrappers, or (2) accompanying such article.

(k) "New drug" means—

(1) Any drug the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety of drugs, as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof, unless at any time prior to June 25, 1938, it was subject to the Food and Drugs Act of June 30, 1906, as amended, and at such time its labeling contained the same representations concerning the conditions of its use; or

(2) Any drug the composition of which is such that, as a result of investigations to determine its safety for use under such conditions, it has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.

(1) "Nonfat dry milk solids" or "defatted milk solids" is the product resulting from the removal of fat and water from the sweet milk of cows, and containing (a) the lactose, milk proteins, and milk minerals in the same relative proportions as in the fresh milk from which made, (b) not over 5 per centum by weight of moisture, and (c) not over 1½ per centum by weight of fat content unless otherwise indicated.

(m) "Official compendium" means the official United States Pharmacopœia, official Homœopathic Pharmacopeia of the United States, official National Formulary, or any supplement to any of them.

(n) "Package" includes wrapped meats inclosed in papers or other materials as prepared by the manufacturers thereof for sale.

(o) "Person" means an individual, partnership, corporation, or association.

(p) "Territory" includes the District of Columbia and any Territory or possession of the United States, but not the Canal Zone.

§ 42. Determination of misbranding

If an article is alleged to be misbranded because the labeling is misleading, there shall be taken into account, among other things, in determining whether the labeling is misleading not only representations made or suggested by statement, word, design, device, or any combination thereof, but also the extent to which the labeling fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling relates under the conditions of use prescribed in the labeling thereof or under such conditions of use as are customary or usual.

§ 43. Representation as antiseptic

The representation of a drug, in its labeling, as an antiseptic shall constitute a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or for such other use as involves prolonged contact with the body.

§ 44. Short title

This chapter may be cited as the "Federal Food, Drug, and Cosmetic Act".

SUBCHAPTER II—FOOD

§ 51. Definitions and standards for food; procedure governing establishment; objections; hearings; applicability of other provisions

(a) Whenever in the judgment of the Secretary such action will promote honesty and fair dealing in the interest of consumers, the Secretary shall promulgate regulations fixing and establishing for any food, under its common or usual name in so far as practicable, a reasonable definition and standard of identity, a reasonable standard of quality, and/or reasonable standards of fill of container.

The Secretary may not establish a definition and standard of identity or standard of quality for fresh or dried fruits, fresh or dried vegetables, or butter, but may establish definitions and standards of identity, relating only to maturity and to the effects of freezing, for avocados, cantaloupes, citrus fruits, and melons.

In prescribing any standard of fill of container, the Secretary shall give consideration to the natural shrinkage in storage and in transit of fresh natural food and to need for the necessary packing and protective material.

In prescribing any standard of quality for any canned fruit or canned vegetable, the Secretary shall give consideration to and make due allowance for the differing characteristics of the several varieties of such fruit or vegetable.

In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted, the Secretary shall, for the purpose of promoting honesty and fair dealing in the interest of consumers, designate the optional ingredients which shall be named on the label.

(b) (1) Any action under subsection (a) of this section for the issuance, amendment, or repeal of any regulation shall be begun by a proposal made (A) by the Secretary of his own initiative, or (B) by petition of any interested person, showing reasonable grounds therefor, filed with the Secretary. The Secretary shall publish the proposal and shall afford all interested persons an opportunity to present their views thereon, orally or in writing. As soon as practicable thereafter, the Secretary shall by order act upon such proposal and shall make such order public. Except as provided in paragraph (2) of this subsection the order shall become effective at such time as may be specified therein,

but not prior to the day following the last day on which objections may be filed under such paragraph.

(2) At any time prior to the thirtieth day after the date on which an order entered under paragraph (1) of this subsection is made public, any person who will be adversely affected by such order if placed in effect may file objections thereto with the Secretary, specifying with particularity the provisions of the order deemed objectionable, stating the grounds therefor, and requesting a public hearing upon such objections. Until final action upon such objections is taken by the Secretary under paragraph (3) of this subsection, the filing of such objections shall operate to stay the effectiveness of those provisions of the order to which the objections are made. As soon as practicable after the time for filing objections has expired the Secretary shall publish a notice in the Federal Register specifying those parts of the order which have been stayed by the filing of objections and, if no objections have been filed, stating that fact.

(3) As soon as practicable after such request for a public hearing, the Secretary, after due notice, shall hold such a public hearing for the purpose of receiving evidence relevant and material to the issues raised by such objections. At the hearing, any interested person may be heard in person or by representative. As soon as practicable after completion of the hearing, the Secretary shall by order act upon such objections and make such order public. Such order shall be based only on substantial evidence of record at such hearing and shall set forth, as part of the order, detailed findings of fact on which the order is based. The Secretary shall specify in the order the date on which it shall take effect, except that it shall not be made to take effect prior to the ninetieth day after its publication unless the Secretary finds that emergency conditions exist necessitating an earlier effective date, in which event the Secretary shall specify in the order his findings as to such conditions. Such order shall be subject to the provisions of section 131 (f) and (g) of this title.

§ 52. Adulterated food

A food is deemed to be adulterated—

(a) POISONOUS, INSANITARY, ETC., INGREDIENTS.—(1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health unless the substance is not an added substance and its quantity in such food does not ordinarily render it injurious to health; or (2) if it bears or contains any added poisonous or added deleterious substance which is unsafe within the meaning of section 55 of this title; or (3) if it consists in whole or

in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for food; or (4) if it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth or whereby it may have been rendered injurious to health; or (5) if it is, in whole or in part, the product of a diseased animal or of an animal which has died otherwise than by slaughter; or (6) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

(b) **ABSENCE, SUBSTITUTION, OR ADDITION OF CONSTITUENTS.**—

(1) If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or (2) if any substance has been substituted wholly or in part therefor; or (3) if damage or inferiority has been concealed in any manner; or (4) if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

(c) **UNCERTIFIED COAL-TAR COLORING.**—If it bears or contains a coal-tar color other than one from a batch that has been certified in accordance with regulations as provided by section 55 of this title. This paragraph does not apply to citrus fruit bearing or containing a coal-tar color where application for listing of such color has been made under this chapter but not acted on by the Secretary, if such color was commonly used prior to June 25, 1938, for the purpose of coloring citrus fruit.

(d) **CONFECTIONERY CONTAINING ALCOHOL OR NONNUTRITIVE SUBSTANCE.**—If it is confectionery, and it bears or contains any alcohol or nonnutritive article or substance except harmless coloring, harmless flavoring, harmless resinous glaze not in excess of four-tenths of 1 per centum, natural gum, and pectin. This paragraph does not apply to any confectionery by reason of its containing less than one-half of 1 per centum by volume of alcohol derived solely from the use of flavoring extracts, or to any chewing gum by reason of its containing harmless nonnutritive masticatory substances.

(e) **INSANITARY INGREDIENTS IN OLEOMARGARINE OR BUTTER.**—If it is oleomargarine or margarine or butter and any of the raw material used therein consisted in whole or in part of any filthy, putrid, or decomposed substance, or such oleomargarine or margarine or butter is otherwise unfit for food.

§ 53. Misbranded food

A food is deemed to be misbranded—

(a) FALSE OR MISLEADING LABELING.—If its labeling is false or misleading in any particular.

(b) OFFER FOR SALE UNDER ANOTHER NAME.—If it is offered for sale under the name of another food.

(c) IMITATION.—If it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word “imitation” and, immediately thereafter, the name of the food imitated.

(d) MISLEADING CONTAINER.—If its container is so made, formed, or filled as to be misleading.

(e) PACKAGE FORM.—If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count. Under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary.

(f) PROMINENCE OF INFORMATION ON LABEL.—If any word, statement, or other information required by or under authority of this chapter to appear on the label or labels is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(g) REPRESENTATION AS TO IDENTITY.—If it purports to be or is represented as a food for which a definition and standard of identity has been prescribed by regulations as provided by section 51 of this title, unless (1) it conforms to such definition and standard, and (2) its label bears the name of the food specified in the definition and standard, and, insofar as required by such regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such food.

(h) REPRESENTATION AS TO QUALITY AND FILL OF CONTAINER.—If it purports to be or is represented as—

(1) a food for which a standard of quality has been prescribed by regulations as provided by section 51 of this title, and its quality falls below such standard, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard; or

(2) a food for which a standard or standards of fill of container has been prescribed by regulations as provided by section 51 of this title, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard.

(i) LABEL WHERE NO REPRESENTATION AS TO STANDARD OF IDENTITY.—If it is not subject to the provisions of paragraph (g) of this section unless its label bears (1) the common or usual name of the food, if any there be, and (2) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavoring, and colorings without naming each. The Secretary shall promulgate regulations establishing exemptions to the extent that compliance with the requirements of clause (2) of this paragraph is impracticable, or results in deception or unfair competition.

(j) REPRESENTATION FOR SPECIAL DIETARY USE.—If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the Secretary by regulations prescribes as necessary in order fully to inform purchasers as to its value for such uses.

(k) ARTIFICIAL FLAVORING, ETC.; EXCEPTION OF ARTICLES FROM (g), (i), AND (k).—If it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact. The Secretary shall promulgate regulations establishing exemptions to the extent that compliance with the requirements of this paragraph is impracticable. The provisions of this paragraph and paragraphs (g) and (i) of this section with respect to artificial coloring shall not apply in the case of butter, cheese, or ice cream.

§ 54. Exemptions

The Secretary shall promulgate regulations exempting from any labeling requirement of this chapter (1) small open containers of fresh fruits and fresh vegetables and (2) food which is, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such food is not adulterated or misbranded under the provisions of this chapter upon removal from such processing, labeling, or repacking establishment.

§ 55. Tolerances for poisonous ingredients; certification of coal-tar colors for foods

(a) Any poisonous or deleterious substance added to any food, except where such substance is required in the production thereof or cannot be avoided by good manufacturing practice, shall be deemed to be unsafe for purposes of the application of clause (2) of section 52 (a) of this title. When such substance is so required or cannot be so avoided, the Secretary shall promulgate regulations limiting the quantity therein or thereon to the extent the Secretary finds necessary for the protection of public health, and any quantity exceeding the limits so fixed shall also be deemed to be unsafe for purposes of the application of clause (2) of section 52 (a) of this title. While such a regulation is in effect limiting the quantity of any such substance in the case of any food, such food shall not, by reason of bearing or containing any added amount of such substance, be considered to be adulterated within the meaning of clause (1) of section 52 (a) of this title. In determining the quantity of such added substance to be tolerated in or on different articles of food, the Secretary shall take into account the extent to which the use of such substance is required or cannot be avoided in the production of each such article and the other ways in which the consumer may be affected by the same or other poisonous or deleterious substances.

(b) The Secretary shall promulgate regulations providing for the listing of coal-tar colors which are harmless and suitable for use in food and for the certification of batches of such colors, with or without harmless diluents.

§ 56. Emergency permit control

(a) Whenever the Secretary finds after investigation that the distribution in interstate commerce of any class of food may, by reason of contamination with micro-organisms during the manufacture, processing, or packing thereof in any locality, be injurious to health, and that the injurious nature cannot be adequately determined after the articles have entered interstate commerce, the Secretary then, and in such case only, shall promulgate regulations providing for the issuance, to manufacturers, processors, or packers of such class of food in such locality, of permits to which shall be attached such conditions governing the manufacture, processing, or packing of such class of food, for the period of time necessary to protect the public health. After the effective date of such regulations, and during such period, no person shall introduce or deliver for introduction into interstate commerce any such

food unless such manufacturer, processor, or packer holds a permit issued by the Secretary as provided by such regulations.

(b) The Secretary may suspend immediately upon notice any permit issued under authority of this section if it is found that any of the conditions of the permit have been violated. The holder of a permit so suspended may at any time apply for the reinstatement thereof and the Secretary shall, immediately after prompt hearing and an inspection of the establishment, reinstate such permit if it is found that adequate measures have been taken to comply with and maintain the conditions of the permit as originally issued or as amended.

(c) Any officer or employee designated by the Secretary shall have access to any factory or establishment, the operator of which holds a permit from the Secretary, for the purpose of ascertaining whether the conditions of the permit are being complied with. If access for such inspection is denied, the Secretary may suspend the permit until such access is freely given by the operator.

§ 57. Sea food; examination on request of packer; fees

(a) Upon application of any packer of sea food for shipment or sale within the jurisdiction of this chapter, the Secretary may designate inspectors to examine and inspect such food and the production, packing, and labeling thereof. If on such examination and inspection compliance is found with the provisions of this chapter and regulations promulgated thereunder, the applicant shall be authorized or required to mark the food as provided by regulation to show such compliance. The Secretary may promulgate regulations governing the sanitary and other conditions under which the service herein provided shall be granted and maintained, and for otherwise carrying out the purposes of this section.

(b) Services under this section shall be rendered only upon payment by the applicant of fees fixed by regulation in amounts necessary to provide, equip, and maintain an adequate and efficient inspection service. Receipts from such fees shall be covered into the Treasury and shall be available to the Secretary for expenditures incurred in carrying out the purposes of this section, including salaries of additional inspectors when necessary to supplement the number for whose salaries Congress has appropriated.

§ 58. Colored oleomargarine; Congressional finding as to sale or serving

The Congress finds and declares that the sale, or the serving in public eating places, of colored oleomargarine or colored margarine without clear identification as such or which is otherwise adulterated

or misbranded within the meaning of this chapter depresses the market in interstate commerce for butter and for oleomargarine or margarine clearly identified and neither adulterated nor misbranded, and constitutes a burden on interstate commerce in such articles. Such burden exists, irrespective of whether such oleomargarine or margarine originates from an interstate source or from the State in which it is sold.

§ 59. Colored oleomargarine; sale in State where produced; packaging and labeling; service in restaurants

(a) Colored oleomargarine or colored margarine which is sold in the same State or Territory in which it is produced shall be subject in the same manner and to the same extent to the provisions of this chapter as if it had been introduced in interstate commerce.

(b) No person shall sell, or offer for sale, colored oleomargarine or colored margarine unless—

- (1) such oleomargarine or margarine is packaged;
- (2) the net weight of the contents of any package sold in a retail establishment is one pound or less;
- (3) there appears on the label of the package (A) the word "oleomargarine" or "margarine" in type or lettering at least as large as any other type or lettering on such label and (B) a full and accurate statement of all the ingredients contained in such oleomargarine or margarine; and
- (4) each part of the contents of the package is contained in a wrapper which bears the word "oleomargarine" or "margarine" in type or lettering not smaller than 20-point type.

The requirements of this subsection shall be in addition to and not in lieu of any of the other requirements of this chapter.

(c) No person shall possess in a form ready for serving colored oleomargarine or colored margarine at a public eating place unless a notice that oleomargarine or margarine is served is displayed prominently and conspicuously in such place and in such manner as to render it likely to be read and understood by the ordinary individual being served in such eating place or is printed or is otherwise set forth on the menu in type or lettering not smaller than that normally used to designate the serving of other food items. No person shall serve colored oleomargarine or colored margarine at a public eating place, whether or not any charge is made therefor, unless (1) each separate serving bears or is accompanied by labeling identifying it as oleomargarine or margarine, or (2) each separate serving thereof is triangular in shape.

(d) If colored oleomargarine or colored margarine complies with the requirements of subsection (b) of this section when served with meals at a public eating place, it shall, at the time of such service, be exempt from the requirements of section 53 of this title, except subsections (a) and (f) of such section.

(e) For the purposes of this section, colored oleomargarine or colored margarine is oleomargarine or margarine having a tint or shade containing more than one and six-tenths degrees of yellow, or of yellow and red collectively, but with an excess of yellow over red, measured in terms of the Lovibond tintometer scale or its equivalent, and the term "oleomargarine" or "margarine" includes—

(1) all substances, mixtures, and compounds known as oleomargarine or margarine;

(2) all substances, mixtures, and compounds which have a consistence similar to that of butter and which contain any edible oils or fats other than milk fat if made in imitation or semblance of butter.

§ 60. Oleomargarine, butterine, imitation butter or cheese; application of State laws

(a) Nothing in this chapter or sections 45 and 55 of Title 15 shall be construed as authorizing the possession, sale, or serving of colored oleomargarine, or colored margarine in any State or Territory in contravention of the laws of such State or Territory.

(b) All articles known as oleomargarine, butterine, imitation, process, renovated, or adulterated butter, or imitation cheese, or any substance in the semblance of butter or cheese not the usual product of the dairy and not made exclusively of pure and unadulterated milk or cream, transported into any State or Territory or the District of Columbia, and remaining therein for use, consumption, sale, or storage therein, shall, upon the arrival within the limits therein be subject to the operation and effect of the laws thereof enacted in the exercise of its police powers to the same extent and in the same manner as though such articles or substances had been produced therein, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise.

§ 61. Exemption of meats and meat food products

Meats and meat food products are exempt from the provisions of this chapter to the extent of the application or the extension thereto of sections 491–510 of this title.

SUBCHAPTER III—DRUGS AND DEVICES

§ 71. **Adulterated drugs and devices**(a) **POISONOUS, INSANITARY, ETC., INGREDIENTS.—**

A drug or device is deemed to be adulterated—

(1) If it consists in whole or in part of any filthy, putrid, or decomposed substance; or

(2) if it has been prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth or whereby it may have been rendered injurious to health; or

(3) if it is a drug and its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or

(4) if it is a drug and bears or contains, for purposes of coloring only, a coal-tar color other than one from a batch that has been certified in accordance with regulations as provided by section 74 of this title.

(b) **STRENGTH, QUALITY, OR PURITY DIFFERING FROM OFFICIAL COMPENDIUM.—**If it purports to be or is represented as a drug the name of which is recognized in an official compendium, and its strength differs from, or its quality or purity falls below, the standard set forth in such compendium, determined in accordance with the tests or methods of assay set forth in such compendium. Whenever tests or methods of assay have not been prescribed in such compendium, or, if prescribed, are, in the judgment of the Secretary, insufficient for the making of such determination, the Secretary shall notify the appropriate body charged with the revision of such compendium, and if such body fails within a reasonable time to prescribe tests or methods of assay which, in the judgment of the Secretary, are sufficient for purposes of this paragraph, he shall promulgate regulations prescribing appropriate tests or methods of assay in accordance with which such determination as to strength, quality, or purity shall be made. No drug defined in an official compendium shall be deemed to be adulterated under this paragraph because it differs from the standard of strength, quality, or purity therefor set forth in such compendium, if its difference in strength, quality, or purity from such standard is plainly stated on its label. A drug recognized in both the United States Pharmacopœia and the Homœopathic Pharmacopœia of the United States shall be subject to the requirements of the United States Pharmacopœia unless it is labeled and offered for sale as a homœopathic drug, in which case it shall be subject to the provisions of the Homœopathic Pharmacopœia of the United States.

(c) **MISREPRESENTATION OF STRENGTH, ETC., WHERE DRUG IS UNRECOGNIZED IN COMPENDIUM.**—If it is not subject to the provisions of paragraph (b) of this section and its strength differs from, or its purity or quality falls below, that which it purports or is represented to possess.

(d) **MIXTURE WITH OR SUBSTITUTION OF ANOTHER SUBSTANCE.**—If it is a drug and any substance has been (1) mixed or packed therewith so as to reduce its quality or strength or (2) substituted wholly or in part therefor.

§ 72. Misbranded drugs and devices

A drug or device is deemed to be misbranded—

(a) **FALSE OR MISLEADING LABELING.**—If its labeling is false or misleading in any particular.

(b) **PACKAGE FORM; CONTENTS OF LABEL.**—If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count. Under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary.

(c) **PROMINENCE OF INFORMATION ON LABEL.**—If any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(d) **HABIT-FORMING SUBSTANCE.**—If it is for use by man and contains any quantity of the narcotic or hypnotic substance alpha eucaine, barbituric acid, betaencaine, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, marihuana, morphine, opium, paraldehyde, peyote, or sulphonmethane; or any chemical derivative of such substance, which derivatives the Secretary, after investigation, finds to be, and by regulations designates as, habit forming; unless its label bears the name and quantity or proportion of such substance or derivative and in juxtaposition therewith the statement "Warning—May be habit forming."

(e) **DESIGNATION OF DRUG BY NAME NOT IN COMPENDIUM.**—If it is a drug not designated solely by a name recognized in an official compendium unless its label bears (1) the common or usual name of the drug, if such there be; and (2), in case it is fabricated

from two or more ingredients, the common or usual name of each active ingredient, including the quantity, kind, and proportion of any alcohol, and also including, whether active or not, the name and quantity or proportion of any bromides, ether, chloroform, acetanilid, acetphenetidin, amidopyrine, antipyrine, atropine, hyoscyne, hyoscyamine, arsenic, digitalis, digitalis glucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or any derivative or preparation of any such substances, contained therein. The Secretary shall promulgate regulations establishing exemptions to the extent that compliance with the requirements of clause (2) of this paragraph is impracticable.

(f) **DIRECTIONS FOR USE AND WARNINGS ON LABEL.**—Unless its labeling bears (1) adequate directions for use; and (2) adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in such manner and form as are necessary for the protection of users. Where any requirement of clause (1) of this paragraph, as applied to any drug or device, is not necessary for the protection of the public health, the Secretary shall promulgate regulations exempting such drug or device from such requirement.

(g) **REPRESENTATION AS RECOGNIZED DRUG; PACKING AND LABELING.**—If it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed therein. The Secretary may consent to a modification of the method of packing. A drug recognized in both the United States Pharmacopœia and the Homœopathic Pharmacopœia of the United States shall be subject to the requirements of the United States Pharmacopœia with respect to packaging and labeling unless it is labeled and offered for sale as a homœopathic drug, in which case it shall be subject to the provisions of the Homœopathic Pharmacopœia of the United States.

(h) **DETERIORATIVE DRUGS; PACKING AND LABELING.**—If it has been found by the Secretary to be a drug liable to deterioration, unless it is packaged in such form and manner, and its label bears a statement of such precautions, as the Secretary by regulations requires as necessary for the protection of the public health. The Secretary shall not establish such a regulation for any drug recognized in an official compendium until the Secretary has informed the body charged with the revision of such compendium of the need for such packaging or label-

ing requirements and such body has failed within a reasonable time to prescribe such requirements.

(i) **DRUG; MISLEADING CONTAINER; IMITATION; OFFER FOR SALE UNDER ANOTHER NAME.**—(1) If it is a drug and its container is so made, formed, or filled as to be misleading; or (2) if it is an imitation of another drug; or (3) if it is offered for sale under the name of another drug.

(j) **HEALTH-ENDANGERING WHEN USED AS PRESCRIBED.**—If it is dangerous to health when used in the dosage, or with the frequency or duration prescribed, recommended, or suggested in the labeling thereof.

(k) **INSULIN NOT PROPERLY CERTIFIED.**—If it is, or purports to be, or is represented as a drug composed wholly or partly of insulin, unless (1) it is from a batch with respect to which a certificate or release has been issued pursuant to section 76 of this title, and (2) such certificate or release is in effect with respect to such drug.

(l) **OTHER DRUGS NOT PROPERLY CERTIFIED.**—If it is, or purports to be, or is represented as a drug composed wholly or partly of any kind of penicillin, streptomycin, chlortetracycline, chloramphenicol, or bacitracin, or any derivative thereof, unless (1) it is from a batch with respect to which a certificate or release has been issued pursuant to section 77 of this title, and (2) such certificate or release is in effect with respect to such drug. This subsection does not apply to any drug or class of drugs exempted by regulations promulgated under section 77 (c) or (d) of this title.

§ 73. Exemptions

(a) The Secretary shall promulgate regulations exempting from any labeling or packing requirement of this chapter drugs and devices which are, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such drugs and devices are not adulterated or misbranded under the provisions of this chapter upon removal from such processing, labeling, or repacking establishment.

(b) (1) A drug intended for use by man which—

(A) is a habit-forming drug to which section 72 (d) of this title applies; or

(B) because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use, is not safe for use except under the supervision of a practitioner licensed by law to administer such drug; or

(C) is limited by an effective application under section 75 of this title to use under the professional supervision of a practitioner licensed by law to administer such drug,

shall be dispensed only (i) upon a written prescription of a practitioner licensed by law to administer such drug, or (ii) upon an oral prescription of such practitioner which is reduced promptly to writing and filed by the pharmacist, or (iii) by refilling any such written or oral prescription if such refilling is authorized by the prescriber either in the original prescription or by oral order which is reduced promptly to writing and filed by the pharmacist. The act of dispensing a drug contrary to the provisions of this paragraph is deemed to be an act which results in the drug being misbranded while held for sale.

(2) A drug dispensed by filling or refilling a written or oral prescription of a practitioner licensed by law to administer such drug is exempt from the requirements of section 72 of this title, except paragraphs (a), (i) (2) and (3), (k) and (l) of such section, and the packaging requirements of paragraphs (g) and (h) of such section, if the drug bears a label containing the name and address of the dispenser, the serial number and date of the prescription or of its filling, the name of the prescriber, and, if stated in the prescription, the name of the patient, and the directions for use and cautionary statements, if any, contained in such prescription. This exemption does not apply to any drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail, or to a drug dispensed in violation of paragraph (1) of this subsection.

(3) The Secretary may by regulation remove drugs subject to sections 72 (d) and 75 of this title from the requirements of paragraph (1) of this subsection when such requirements are not necessary for the protection of the public health.

(4) A drug which is subject to paragraph (1) of this subsection is deemed to be misbranded if at any time prior to dispensing its label fails to bear the statement "Caution: Federal law prohibits dispensing without prescription". A drug to which paragraph (1) of this subsection does not apply is deemed to be misbranded if at any time prior to dispensing its label bears the caution statement quoted in the first sentence of this paragraph.

(5) Nothing in this subsection shall be construed to relieve any person from any requirement prescribed by or under authority of law with respect to drugs now included or which may hereafter be

included within the classifications stated in section 3220 of the Internal Revenue Code, or to marihuana as defined in section 3238 (b) of the Internal Revenue Code.

§ 74. Certification of coal-tar colors for drugs

The Secretary shall promulgate regulations providing for the listing of coal-tar colors which are harmless and suitable for use in drugs for purposes of coloring only and for the certification of batches of such colors, with or without harmless diluents.

§ 75. New drugs

(a) **NECESSITY OF EFFECTIVE APPLICATION.**—No person shall introduce or deliver for introduction into interstate commerce any new drug, unless an application filed pursuant to subsection (b) of this section is effective with respect to such drug.

(b) **FILING APPLICATION.**—Any person may file with the Secretary an application with respect to any drug subject to subsection (a) of this section, which application shall include (1) full reports of investigations which have been made to show whether such drug is safe for use; (2) a full list of the articles used as components of such drug; (3) a full statement of the composition of such drug; (4) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such drug; (5) samples of such drug and of the articles used as components thereof as the Secretary may require; and (6) specimens of the labeling proposed to be used for such drug.

(c) **EFFECTIVE DATE OF APPLICATION.**—An application provided for in subsection (b) of this section shall become effective on the sixtieth day after the filing thereof unless prior to such day the Secretary by written notice to the applicant postpones the effective date of the application to such time, not more than one hundred and eighty days after the filing thereof, as he deems necessary to enable him to study and investigate the application.

(d) **GROUND FOR REFUSING APPLICATION TO BECOME EFFECTIVE.**—Prior to the effective date of the application, the Secretary shall issue an order refusing to permit the application to become effective if he finds, after due notice to the applicant and giving him an opportunity for a hearing, that (1) the investigations reported pursuant to subsection (b) of this section do not include adequate tests by all methods reasonably applicable to show whether such drug is safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof; (2) the results of such tests show that such

drug is unsafe for use under such conditions or do not show that such drug is safe for use under such conditions; (3) the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such drug are inadequate to preserve its identity, strength, quality, and purity; or (4) upon the basis of the information submitted to him as part of the application, or other information before him with respect to such drug, he has insufficient information to determine whether such drug is safe for use under such conditions.

(e) **SUSPENSION OF EFFECTIVENESS OF APPLICATION.**—The Secretary shall order the suspension of the effectiveness of an application with respect to any drug after due notice and opportunity for hearing to the applicant, if he finds (1) that clinical experience, tests by new methods, or tests by methods not deemed reasonably applicable when such application became effective show that such drug is unsafe for use under the conditions of use upon the basis of which the application became effective, or (2) that the application contains any untrue statement of a material fact. The order shall state the findings upon which it is based.

(f) **REVOCATION OF ORDER REFUSING EFFECTIVENESS.**—When the Secretary finds that the facts so require he shall revoke an order refusing to permit an application with respect to a drug to become effective.

(g) **SERVICE OF ORDERS.**—Orders of the Secretary issued under this section shall be served (1) in person by any officer or employee of the Department designated by the Secretary or (2) by registered mail addressed to the applicant or respondent at his last-known address in the records of the Secretary.

(h) **APPEAL FROM ORDER.**—The applicant may appeal from an order of the Secretary refusing to permit the application to become effective, or suspending the effectiveness of the application by filing in the United States district court within any district wherein such applicant resides or has his principal place of business, or in the United States District Court for the District of Columbia, within sixty days after the entry of the order, a written petition praying that the order of the Secretary be set aside. The applicant shall serve a copy of the petition forthwith upon the Secretary, or upon any officer designated by him for that purpose, and thereupon the Secretary shall certify and file in the court a transcript of the record upon which the order complained of was entered. Upon the filing of such transcript the court shall have exclusive jurisdiction to affirm or set aside such order. The court shall

not consider an objection to the order of the Secretary unless such objection was urged before the Secretary or unless there were reasonable grounds for failure so to do. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive. If any person applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence to be taken before the Secretary and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court seems proper. The Secretary may modify his findings as to the facts by reason of the additional evidence so taken, and he shall file with the court such modified findings which, if supported by substantial evidence, shall be conclusive, and his recommendations, if any, for the setting aside of the original order. The judgment and decree of the court affirming or setting aside any such order of the Secretary shall be final, subject to review as provided in sections 1254 and 1291-1294 of Title 28. The commencement of proceedings under this subsection shall not, unless specifically ordered by the court to the contrary, operate as a stay of the Secretary's order.

(i) **EXEMPTION OF DRUGS FOR RESEARCH.**—The Secretary shall promulgate regulations for exempting from the operation of this section drugs intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety of drugs.

§ 76. Certification of drugs containing insulin

(a) The Secretary, pursuant to regulations promulgated by the Secretary, shall provide for the certification of batches of drugs composed wholly or partly of insulin. A batch of any such drug shall be certified only if such drug has such characteristics of identity and such batch has such characteristics of strength, quality, and purity, as the Secretary prescribes in such regulations as necessary adequately to insure safety and efficacy of use. Prior to the effective date of such regulations the Secretary, in lieu of certification, shall issue a release for any batch which, in his judgment, may be released without risk as to the safety and efficacy of its use. Such release shall prescribe the date of its expiration and other conditions under which it shall cease to be effective as to such batch and as to portions thereof.

(b) Regulations providing for such certifications shall contain such provisions as are necessary to carry out the purposes of this section, including provisions prescribing (1) standards of identity and of strength, quality, and purity; (2) tests and methods of assay to determine compliance with such standards; (3) effective periods for certificates, and other conditions under which they shall cease to be effective as to certified batches and as to portions thereof; (4) administration and procedure; and (5) such fees, specified in such regulations, as are necessary to provide, equip, and maintain an adequate certification service. Such regulations shall prescribe no standard of identity or of strength, quality, or purity for any drug different from the standard of identity, strength, quality, or purity set forth for such drug in an official compendium.

(c) Such regulations, insofar as they prescribe tests or methods of assay to determine strength, quality, or purity of any drug, different from the tests or methods of assay set forth for such drug in an official compendium, shall be prescribed, after notice and opportunity for revision of such compendium, in the manner provided in the second sentence of section 71 (b) of this title. The provisions of subsections (e), (f), and (g) of section 131 of this title shall be applicable to such portion of any regulation as prescribes any such different test or method, but shall not be applicable to any other portion of any such regulation.

§ 77. Certification of drugs containing certain antibiotics

(a) REGULATIONS FOR CERTIFICATION.—The Secretary, pursuant to regulations promulgated by the Secretary, shall provide for the certification of batches of drugs composed wholly or partly of any kind of penicillin, streptomycin, chlortetracycline, chloramphenicol, or bacitracin, or any derivative of any of them. A batch of any such drug shall be certified only if such drug has such characteristics of identity and such batch has such characteristics of strength, quality, and purity, as the Secretary prescribes in such regulations as necessary adequately to insure safety and efficacy of use. Prior to the effective date of such regulations the Secretary, in lieu of certification, shall issue a release for any batch which, in the Secretary's judgment, may be released without risk as to the safety and efficacy of its use. Such release shall prescribe the date of its expiration and other conditions under which it shall cease to be effective as to such batch and as to portions thereof.

(b) PROVISIONS OF REGULATIONS.—Regulations providing for such

certifications shall contain such provisions as are necessary to carry out the purposes of this section, including provisions prescribing (1) standards of identity and of strength, quality, and purity; (2) tests and methods of assay to determine compliance with such standards; (3) effective periods for certificates, and other conditions under which they shall cease to be effective as to certified batches and as to portions thereof; (4) administration and procedure; and (5) such fees, specified in such regulations, as are necessary to provide, equip, and maintain an adequate certification service. Such regulations shall prescribe only such tests and methods of assay as will provide for certification or rejection within the shortest time consistent with the purposes of this section.

(c) **EXEMPTION OF DRUGS NOT INVOLVING SAFETY AND EFFICACY OF USE.**—Whenever in the judgment of the Secretary, the requirements of this section and of section 72 (l) of this title with respect to any drug or class of drugs are not necessary to insure safety and efficacy of use, the Secretary shall promulgate regulations exempting such drug or class of drugs from such requirements.

(d) **OTHER EXEMPTIONS.**—The Secretary shall promulgate regulations exempting from any requirement of this section and of section 72 (l) of this title, (1) drugs which are to be stored, processed, labeled, or repacked at establishments other than those where manufactured, on condition that such drugs comply with all such requirements upon removal from such establishments; (2) drugs which conform to applicable standards of identity, strength, quality, and purity prescribed by these regulations and are intended for use in manufacturing other drugs; and (3) drugs which are intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety and efficacy of drugs.

(e) **APPLICATION OF OTHER SECTIONS; DETERMINATION OF COMPLIANCE.**—No drug which is subject to this section shall be subject to section 75 of this title. Compliance of any drug subject to this section or to section 72 (l) of this title with sections 71 (b) and 72 (g) of this title shall be determined by the application of the standards of strength, quality, and purity, the tests and methods of assay, and the requirements of packaging and labeling, respectively, prescribed by regulations promulgated under this section.

(f) **PROCEDURE FOR ISSUANCE, AMENDMENT, OR REPEAL OF REGULATIONS.**—Any interested person may file with the Secretary a petition proposing the issuance, amendment, or repeal of any regulation con-

templated by this section. The petition shall set forth the proposal in general terms and shall state reasonable grounds therefor. The Secretary shall give public notice of the proposal and an opportunity for all interested persons to present their views thereon, orally or in writing, and as soon as practicable thereafter shall make public the Secretary's action upon such proposal. At any time prior to the thirtieth day after such action is made public any interested person may file objections to such action, specifying with particularity the changes desired, stating reasonable grounds therefor, and requesting a public hearing upon such objections. The Secretary shall thereupon, after due notice, hold such public hearing. As soon as practicable, after completion of the hearing, the Secretary shall by order make public the Secretary's action on such objections. The order shall be based only on substantial evidence of record at the hearing and shall include detailed findings of fact on which it is based. The order shall be subject to the provisions of section 131 (f) and (g) of this title.

SUBCHAPTER IV—COSMETICS

§ 91. Adulterated cosmetics

A cosmetic is deemed to be adulterated—

(a) If it bears or contains any poisonous or deleterious substance which may render it injurious to users under the conditions of use prescribed in the labeling thereof, or under such conditions of use as are customary or usual. This provision does not apply to coal-tar hair dye, the label of which bears the following legend conspicuously displayed thereon: "Caution—This product contains ingredients which may cause skin irritation on certain individuals and a preliminary test according to accompanying directions should first be made. This product must not be used for dyeing the eyelashes or eyebrows; to do so may cause blindness.", and the labeling of which bears adequate directions for such preliminary testing. For the purposes of this paragraph and paragraph (e) of this section the term "hair dye" does not include eyelash dyes or eyebrow dyes.

(b) If it consists in whole or in part of any filthy, putrid, or decomposed substance.

(c) If it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth or whereby it may have been rendered injurious to health.

(d) If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

(e) If it is not a hair dye and it bears or contains a coal-tar color other than one from a batch that has been certified in accordance with regulations as provided by section 94 of this title.

§ 92. Misbranded cosmetics

A cosmetic is deemed to be misbranded—

(a) If its labeling is false or misleading in any particular.

(b) If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count. Under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary.

(c) If any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(d) If its container is so made, formed, or filled as to be misleading.

§ 93. Exemptions

The Secretary shall promulgate regulations exempting from any labeling requirement of this chapter cosmetics which are, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such cosmetics are not adulterated or misbranded under the provisions of this chapter upon removal from such processing, labeling, or repacking establishment.

§ 94. Certification of coal-tar colors for cosmetics

The Secretary shall promulgate regulations providing for the listing of coal-tar colors which are harmless and suitable for use in cosmetics and for the certification of batches of such colors, with or without harmless diluents.

SUBCHAPTER V—IMPORTS AND EXPORTS

§ 111. Examination and refusal of imports

(a) The Secretary of the Treasury shall deliver to the Secretary of Health, Education, and Welfare, upon the latter Secretary's request, samples of food, drugs, devices, and cosmetics which are being imported

or offered for import into the United States, giving notice thereof to the owner or consignee, who may appear before the Secretary of Health, Education, and Welfare and have the right to introduce testimony. If it appears from the examination of such samples or otherwise that the article (1) has been manufactured, processed, or packed under insanitary conditions, or (2) is forbidden or restricted in sale in the country in which it was produced or from which it was exported, or (3) is adulterated, misbranded, or in violation of section 75 of this title, the Secretary of the Treasury shall refuse to admit the article, except as provided in subsection (b) of this section. He shall cause the destruction of any such article refused admission unless it is exported, under regulations prescribed by him, within ninety days of the date of notice of such refusal or within such additional time permitted pursuant to such regulations. This subsection does not prohibit the admission of narcotic drugs the importation of which is permitted under section 763 of this title.

(b) Pending decision as to the admission of an article being imported or offered for import, the Secretary of the Treasury may authorize delivery of such article to the owner or consignee upon the execution by him of a good and sufficient bond providing for the payment of such liquidated damages in the event of default as may be required pursuant to regulations of the Secretary of the Treasury. If it appears to the Secretary of Health, Education, and Welfare that an article included within the provisions of clause (3) of subsection (a) of this section can, by relabeling or other action, be brought into compliance with this chapter or rendered other than a food, drug, device, or cosmetic, the Secretary of the Treasury may defer final determination as to admission of such article and, upon filing of timely written application by the owner or consignee and the execution by him of a bond as provided in the preceding provisions of this subsection, the Secretary of Health, Education, or Welfare may, in accordance with regulations, authorize the applicant to perform such relabeling or other action specified in such authorization (including destruction or export of rejected articles or portions thereof, as may be specified in the latter Secretary's authorization). All such relabeling or other action pursuant to such authorization shall in accordance with regulations be under the supervision of an officer or employee of the Department of Health, Education, and Welfare designated by the Secretary of that Department, or an officer or employee of the Department of the Treasury designated by the Secretary of the Treasury.

(c) The owner or consignee shall pay all expenses, including travel, per diem or subsistence, and salaries of officers or employees of the United States, determined in accordance with regulations, in connection with the destruction provided for in subsection (a) of this section and the supervision of the relabeling or other action authorized under subsection (b) of this section, and all expenses in connection with the storage, cartage, or labor with respect to any article refused admission under subsection (a) of this section. In default of payment, expenses specified in this subsection shall constitute a lien against any future importations made by such owner or consignee.

§ 112. Exports adulterated or misbranded

A food, drug, device, or cosmetic intended for export is not deemed to be adulterated or misbranded under this chapter if it (1) accords to the specifications of the foreign purchaser, (2) is not in conflict with the laws of the country to which it is intended for export, and (3) is labeled on the outside of the shipping package to show that it is intended for export. Such article sold or offered for sale in domestic commerce, is not exempt from any of the provisions of this chapter.

§ 113. Suspension of adulterated imports

Whenever the President is satisfied that there is good reason to believe that any importation is being made, or is about to be made, into the United States, from any foreign country, of any article used for human food or drink that is adulterated to an extent dangerous to the health or welfare of the people of the United States, or any of them, he may issue his proclamation suspending the importation of such articles from such country for such period of time as he believes necessary to prevent such importation. During such period no person shall import any of such articles into the United States from the countries designated in the proclamation of the President.

SUBCHAPTER VI—ADMINISTRATIVE PROVISIONS

§ 131. Regulations; hearings; judicial review

(a) **REGULATIONS AUTHORIZED.**—The Secretary may promulgate regulations for the efficient enforcement of this chapter, except as otherwise provided in this section.

(b) **IMPORTS AND EXPORTS.**—The Secretary of the Treasury and the Secretary of Health, Education, and Welfare shall jointly prescribe regulations for the efficient enforcement of the provisions of sections 111 and 112 of this title, except as otherwise provided therein, in such manner and to take effect at such time, after due notice, as the Secretary of Health, Education, and Welfare determines.

(c) **CONDUCT OF HEARINGS.**—The Secretary or such officer or employee as he designates shall conduct the hearings authorized or required by this chapter.

(d) **STANDARDS OF IDENTITY IN OTHER LAWS.**—The definitions and standards of identity promulgated in accordance with the provisions of this chapter shall be effective for the purposes of the enforcement of this chapter, notwithstanding such definitions and standards as may be contained in other laws of the United States and regulations promulgated thereunder.

(e) **HEARINGS ON REGULATIONS.**—The Secretary, on his own initiative or upon an application of any interested industry or substantial portion thereof stating reasonable grounds therefor, shall hold a public hearing upon a proposal to issue, amend, or repeal any regulation contemplated by sections 53 (j), 55 (a), 55 (b), 56 (a), 71 (b), 72 (d), 72 (h), 74, and 94 of this title.

The Secretary shall give appropriate notice of the hearing, setting forth the proposal in general terms and specifying the time and place for the hearing not less than thirty days after the date of the notice, except that the public hearing on regulations under section 56 (a) of this title may be held within a reasonable time, to be fixed by the Secretary, after notice thereof. At the hearing any interested person may be heard in person or by his representative. As soon as practicable after completion of the hearing, the Secretary shall by order make public his action in issuing, amending, or repealing the regulation or determining not to take such action. Such order shall be based only on substantial evidence of record at the hearing and shall include detailed findings of fact on which it is based. No such order shall take effect prior to the ninetieth day after it is issued, except that if the Secretary finds that emergency conditions exist necessitating an earlier effective date, then the Secretary shall specify in the order the Secretary's findings as to such conditions and the order shall take effect at such earlier date as the Secretary specifies.

(f) **JUDICIAL REVIEW.**—(1) In a case of actual controversy as to the validity of any order under subsection (e) of this section, any person who will be adversely affected by such order if placed in effect may at any time prior to the ninetieth day after such order is issued file a petition with the United States Court of Appeals for the circuit wherein such person resides or has his principal place of business, for a judicial review of such order. The summons and petition may be served at any place in the United States. The Secretary, promptly upon service of

the summons and petition, shall certify and file in the court the transcript of the proceedings and the record on which the Secretary based the order.

(2) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence, and evidence in rebuttal thereof, to be taken before the Secretary, and to be adduced upon the hearing, in such manner and upon such terms and conditions as the court deems proper. The Secretary may modify the Secretary's findings as to the facts, or make new findings, by reason of the additional evidence so taken, and file such modified or new findings, and the Secretary's recommendation, if any, for the modification or setting aside of the Secretary's original order, with the return of such additional evidence.

(3) The court may affirm the order, or set it aside in whole or in part, temporarily or permanently. If the order of the Secretary refuses to issue, amend, or repeal a regulation and such order is not in accordance with law the court shall by its judgment order the Secretary to take action, with respect to such regulation, in accordance with law. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive.

(4) The judgment of the court affirming or setting aside, in whole or in part, any such order of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of Title 28.

(5) Any action instituted under this subsection shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

(6) The remedies provided for in this subsection shall be in addition to, and not in substitution for, any other remedies provided by law.

(g) **COPIES OF RECORDS OF HEARINGS.**—The Secretary shall furnish a certified copy of the transcript of the record and proceedings under subsection (e) of this section to any interested party at his request, on payment of the costs thereof. Such copy shall be admissible in any criminal, libel for condemnation, exclusion of imports, or other proceeding arising under or in respect to this chapter, irrespective of whether proceedings with respect to the order have previously been instituted or become final under subsection (f) of this section.

§ 132. Examinations and investigations

(a) The Secretary may conduct examinations and investigations for the purposes of this chapter through officers and employees of the Department or through any health, food, or drug officer or employee of any State, Territory, or political subdivision thereof, duly commissioned by the Secretary as an officer of the Department. In the case of food packed in a Territory the Secretary shall attempt to make inspection of such food at the first point of entry within the United States when, in his opinion and with due regard to the enforcement of all the provisions of this chapter, the facilities at his disposal will permit of such inspection. For the purposes of this subsection the term "United States" means the States and the District of Columbia.

(b) Where a sample of a food, drug, or cosmetic is collected for analysis under this chapter, the Secretary shall, upon request provide a part of such official sample for examination or analysis by any person named on the label of the article, or the owner thereof, or his attorney or agent; except that the Secretary may, by regulations, make such reasonable exceptions from, and impose such reasonable terms and conditions relating to, the operation of this subsection as he finds necessary for the proper administration of the provisions of this chapter.

(c) For purposes of enforcement of this chapter, records of any department or independent establishment in the executive branch of the Government shall be open to inspection by any official of the Department of Health, Education, and Welfare authorized by the Secretary to make such inspection.

§ 133. Records of interstate shipment

For the purpose of enforcing the provisions of this chapter, carriers engaged in interstate commerce, and persons receiving food, drugs, devices, or cosmetics in interstate commerce or holding such articles so received, shall, upon the request of an officer or employee duly designated by the Secretary, permit him, at reasonable times, to have access to and to copy all records showing the movement in interstate commerce of any food, drug, device, or cosmetic, or the holding thereof during or after such movement, and the quantity, shipper, and consignee thereof. It shall be unlawful for any such carrier or person to fail to permit such access to and copying of any such record so requested when such request is accompanied by a statement in writing specifying the nature or kind of food, drug, device, or cosmetic to which such request

relates. Evidence obtained under this section shall not be used in a criminal prosecution of the person from whom it is obtained.

Carriers shall not be subject to the other provisions of this chapter by reason of their receipt, carriage, holding, or delivery of food, drugs, devices, or cosmetics in the usual course of business as carriers.

§ 134. Factory inspection; notice; reports; receipts for samples; copies of analyses

(a) For purposes of enforcement of this chapter, officers or employees duly designated by the Secretary, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, may (1) enter, at reasonable times, any factory, warehouse, or establishment in which food, drugs, devices, or cosmetics are manufactured, processed, packed, or held, for introduction into interstate commerce or are held after such introduction, or enter any vehicle being used to transport or hold such food, drugs, devices, or cosmetics in interstate commerce; and (2) inspect, at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, establishment, or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling therein. A separate notice shall be given for each such inspection, but a notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness.

(b) Upon completion of any such inspection of a factory, warehouse, or other establishment, and prior to leaving the premises, the officer or employee making the inspection shall give to the owner, operator, or agent in charge a report in writing setting forth any conditions or practices observed by him which, in his judgment, indicate that any food, drug, device, or cosmetic in such establishment (1) consists in whole or in part of any filthy, putrid, or decomposed substance, or (2) has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health. A copy of such report shall be sent promptly to the Secretary.

(c) If the officer or employee making any such inspection of a factory, warehouse, or other establishment has obtained any sample in the course of the inspection, upon completion of the inspection and prior to leaving the premises he shall give to the owner, operator, or agent in charge a receipt describing the samples obtained.

(d) Whenever in the course of any such inspection of a factory or

other establishment where food is manufactured, processed, or packed, the officer or employee making the inspection obtains a sample of any such food, and an analysis is made of such sample for the purpose of ascertaining whether such food consists in whole or in part of any filthy, putrid, or decomposed substance, or is otherwise unfit for food, a copy of the results of such analysis shall be furnished promptly to the owner, operator, or agent in charge.

§ 135. Publicity

(a) The Secretary shall cause to be published from time to time reports summarizing all judgments, decrees, and court orders rendered under this chapter, including the nature of the charge and the disposition thereof.

(b) The Secretary may also cause to be disseminated information regarding food, drugs, devices, or cosmetics in situations involving, in the Secretary's opinion, imminent danger to health or gross deception of the consumer. Nothing in this section shall be construed to prohibit the Secretary from collecting, reporting, and illustrating the results of the investigations of the Department.

§ 136. Cost of certification of coal-tar colors

The admitting to listing and certification of coal-tar colors, in accordance with regulations prescribed under this chapter, shall be performed only upon payment of fees specified in such regulations, as may be necessary to provide, maintain, and equip an adequate service for such purposes.

§ 137. Revision of Pharmacopeia; development of analyses and tests

The Secretary, in carrying into effect the provisions of this chapter, may cooperate with associations and scientific societies in the revision of the United States Pharmacopeia and in the development of methods of analysis and mechanical and physical tests necessary to carry out the work of the Food and Drug Administration.

SUBCHAPTER VII—ENFORCEMENT AND PENALTIES

§ 151. Prohibited acts

The following acts and the causing thereof are prohibited:

(a) The introduction or delivery for introduction into interstate commerce of any food, drug, device, or cosmetic that is adulterated or misbranded.

(b) The adulteration or misbranding of any food, drug, device, or cosmetic in interstate commerce.

(c) The receipt in interstate commerce of any food, drug, device, or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise.

(d) The introduction or delivery for introduction into interstate commerce of any article in violation of section 56 or 75 of this title.

(e) The refusal to permit access to or copying of any record as required by section 133 of this title.

(f) The refusal to permit entry or inspection as authorized by section 134 of this title.

(g) The manufacture within any Territory of any food, drug, device, or cosmetic that is adulterated or misbranded.

(h) The giving of a guaranty or undertaking referred to in section 152 (c) (2) of this title which is false, except by a person who relied upon a guaranty or undertaking to the same effect signed by, and containing the name and address of, the person residing in the United States from whom he received in good faith the food, drug, device, or cosmetic; or the giving of a guaranty or undertaking referred to in section 152 (c) (3) of this title which guaranty or undertaking is false.

(i) Forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp, tag, label, or other identification device authorized or required by regulations promulgated under the provisions of sections 55 (b), 56, 57, 74, 76, 77, or 94 of this title.

(j) The using by any person to his own advantage, or revealing, other than to the Secretary or officers or employees of the Department, or to the courts when relevant in any judicial proceeding under this chapter, any information acquired under authority of sections 56, 75, 76, 77, or 134 of this title concerning any method or process which as a trade secret is entitled to protection.

(k) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to, a food, drug, device, or cosmetic, if such act is done while such article is held for sale (whether or not the first sale) after shipment in interstate commerce and results in such article being adulterated or misbranded.

(l) The using, on the labeling of any drug or in any advertising relating to such drug, of any representation or suggestion that an application with respect to such drug is effective under section 75 of this title, or that such drug complies with the provisions of such section.

(m) The sale or offering for sale of colored oleomargarine or colored margarine, or the possession or serving of colored oleomargarine or colored margarine in violation of subsection (b) or (c) of section 59 of this title.

(n) The using, in labeling, advertising, or other sales promotion, of any reference to any report or analysis furnished in compliance with section 134 of this title.

§ 152. Penalties; exemptions

(a) Any person who violates any of the provisions of section 151 of this title shall be imprisoned not more than one year or fined not more than \$1,000, or both. Any person who commits such a violation after one conviction under this section has become final shall be imprisoned not more than three years or fined not more than \$10,000, or both.

(b) Notwithstanding the provisions of subsection (a) of this section, any person who violates any of the provisions of section 151 of this title, with intent to defraud or mislead, shall be imprisoned not more than three years or fined not more than \$10,000, or both.

(c) No person shall be subject to the penalties of subsection (a) of this section—

(1) for having received in interstate commerce any article and delivered it or proffered delivery of it, if such delivery or proffer was made in good faith, unless he refuses to furnish on request of an officer or employee duly designated by the Secretary the name and address of the person from whom he purchased or received such article and copies of all documents, if any, pertaining to the delivery of the article to him; or

(2) for having violated section 151 (a) or 151 (d) of this title, if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person residing in the United States from whom he received the article in good faith, to the effect, in case of an alleged violation of section 151 (a) of this title, that such article is not adulterated or misbranded, within the meaning of this chapter, designating this chapter, or to the effect, in case of an alleged violation of section 151 (d) of this title, that such article is not an article which may not, under the provisions of section 56 or 75 of this title, be introduced into interstate commerce; or

(3) for having violated section 151 (a) of this title, where the violation exists because the article is adulterated by reason of containing a coal-tar color not from a batch certified in accordance with the Secretary's regulations, if such person establishes a guaranty or

undertaking signed by, and containing the name and address of, the manufacturer of the coal-tar color, to the effect that such color was from a batch certified in accordance with the applicable regulations promulgated by the Secretary under this chapter; or

(4) for having violated section 151 (b), 151 (c), or 151 (k) of this title by failure to comply with section 72 (f) of this title in respect to an article received in interstate commerce to which neither section 73 (a) nor section 73 (b) (1) is applicable, if the delivery or proffered delivery was made in good faith and the labeling at the time thereof contained the same directions for use and warning statements as were contained in the labeling at the time of such receipt of such article.

§ 153. Injunctions

(a) The United States district courts and the United States courts of the Territories shall have jurisdiction, for cause shown, and subject to the provisions of Rule 65 (a) (b) of the Federal Rules of Civil Procedure, to restrain violations of section 151 of this title, except paragraphs (5), (6), (8), (9), and (10), thereof.

(b) Any violation of an injunction or restraining order issued under this section, which also constitutes a violation of this chapter, shall be tried by the court, or, upon demand of the accused, by a jury, in accordance with the practice and procedure applicable in the case of proceedings subject to the provisions of section 402 of Title 18.

§ 154. Libel for condemnation

(a) **GROUND AND JURISDICTION.**—Any article of food, drug, device, or cosmetic that is adulterated or misbranded when introduced into or while in interstate commerce or while held for sale (whether or not the first sale) after shipment in interstate commerce, or which may not, under the provisions of section 56 or 75 of this title, be introduced into interstate commerce, shall be liable to be proceeded against while in interstate commerce, or at any time thereafter, on libel of information and condemned in any district court of the United States within the jurisdiction of which the article is found.

(b) **PROCEDURE.**—The article shall be liable to seizure by process pursuant to the libel, and the procedure in cases under this section shall conform, as nearly as may be, to the procedure in admiralty; except that on demand of either party any issue of fact joined in any such case shall be tried by jury.

(c) **LIBELS FOR MISBRANDING LIMITED; CHANGE OF VENUE.**—No libel for condemnation for any alleged misbranding shall be instituted under this chapter, if there is pending in any court a libel

for condemnation proceeding under this chapter based upon the same alleged misbranding, and not more than one such proceeding shall be instituted if no such proceeding is so pending, except that such limitations shall not apply—

(1) when such misbranding has been the basis of a prior judgment in favor of the United States, in a criminal, injunction, or libel for condemnation proceeding under this chapter, or

(2) when the Secretary has probable cause to believe from facts found, without hearing, by him or any officer or employee of the Department that the misbranded article is dangerous to health, or that the labeling of the misbranded article is fraudulent, or would be in a material respect misleading to the injury or damage of the purchaser or consumer.

In any case where the number of libel for condemnation proceedings is limited as above provided the proceeding pending or instituted shall, on application of the claimant, seasonably made, be removed for trial to any district agreed upon by stipulation between the parties, or, in case of failure to so stipulate within a reasonable time, the claimant may apply to the court of the district in which the seizure has been made, and such court, after giving the United States attorney for such district reasonable notice and opportunity to be heard, shall by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the claimant's principal place of business, to which the case shall be removed for trial.

(d) CONSOLIDATION OF MULTIPLE PROCEEDINGS.—When libel for condemnation proceedings under this section, involving the same claimant and the same issues of adulteration or misbranding, are pending in two or more jurisdictions, such pending proceedings, upon application of the claimant seasonably made to the court of one such jurisdiction, shall be consolidated for trial by order of such court, and tried in (1) any district selected by the claimant where one of such proceedings is pending; or (2) a district agreed upon by stipulation between the parties. If no order for consolidation is so made within a reasonable time, the claimant may apply to the court of one such jurisdiction, and such court, after giving the United States attorney for such district reasonable notice and opportunity to be heard, shall by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the claimant's principal place of business, in which all such pending proceedings shall be consolidated for trial and tried. Such order of consolidation

shall not apply so as to require the removal of any case the date for trial of which has been fixed. The court granting such order shall give prompt notification thereof to the other courts having jurisdiction of the cases covered thereby.

(e) **REMOVAL FOR TRIAL.**—In the case of removal for trial of any case as provided by subsection (c) or (d) of this section—

(1) The clerk of the court from which removal is made shall promptly transmit to the court in which the case is to be tried all records in the case necessary in order that such court may exercise jurisdiction.

(2) The court to which such case is removed shall have the powers and be subject to the duties, for purposes of the case, which the court from which removal is made would have, or to which such court would be subject, if such case is not removed.

(f) **SAMPLES OF SEIZED GOODS.**—The court at any time after seizure up to a reasonable time before trial shall by order allow any party to a condemnation proceeding, his attorney or agent, to obtain a representative sample of the article seized and a true copy of the analysis, if any, on which the proceeding is based and the identifying marks or numbers, if any, of the packages from which the samples analyzed were obtained.

(g) **DISPOSITION AFTER CONDEMNATION.**—Any food, drug, device, or cosmetic condemned under this section shall, after entry of the decree, be disposed of by destruction or sale as the court may direct in accordance with the provisions of this section. If sold, the proceeds thereof, less the legal costs and charges, shall be paid into the Treasury of the United States. Such article shall not be sold under such decree contrary to the provisions of this chapter or the laws of the jurisdiction in which sold. After entry of the decree and upon the payment of the costs of such proceedings and the execution of a good and sufficient bond conditioned that such article shall not be sold or disposed of contrary to the provisions of this chapter or the laws of any State or Territory in which sold, the court may by order direct that such article be delivered to the owner thereof to be destroyed or brought into compliance with the provisions of this chapter under the supervision of an officer or employee duly designated by the Secretary, and the expenses of such supervision shall be paid by the person obtaining release of the article under bond. Any article condemned by reason of its being an article which may not, under section 56

or 75 of this title, be introduced into interstate commerce, shall be disposed of by destruction.

(h) **Costs.**—When a decree of condemnation is entered against the article, court costs and fees, and storage and other proper expenses, shall be awarded against the person, if any, intervening as claimant of the article.

§ 155. Hearing before violation reported

Before any violation of this chapter is reported by the Secretary to any United States attorney for institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his views, either orally or in writing, with regard to such contemplated proceeding.

§ 156. Report of minor violations

Nothing in this chapter shall be construed as requiring the Secretary to report for prosecution, or for the institution of libel or injunction proceedings, minor violations of this chapter whenever the Secretary believes that the public interest will be adequately served by a suitable written notice or warning.

§ 157. Proceedings in name of United States; subpoenas

All proceedings for the enforcement, or to restrain violations, of this chapter shall be by and in the name of the United States. Subpoenas for witnesses who are required to attend a court of the United States, in any district, may run into any other district in any such proceeding.

CHAPTER 5—MILK AND CREAM

SUBCHAPTER I—IMPORTATION OF MILK AND CREAM

Sec.

- 201. Definitions.
- 202. Permits for importation.
- 203. Unfitness for importation.
- 204. Inspection, issue of permits; regulations.
- 205. Penalties.
- 206. State powers concerning milk and cream.
- 207. Short title.

SUBCHAPTER II—FILLED MILK

Sec.

- 221. Definitions.
- 222. Filled milk; Congressional finding concerning.
- 223. Regulations.
- 224. Penalties.
- 225. Short title.

SUBCHAPTER I—IMPORTATION OF MILK AND CREAM**§ 201. Definitions**

As used in this subchapter—

(a) “Person” means an individual, partnership, corporation, or association.

(b) “United States” means the continental United States.

§ 202. Permits for importation

No person shall import milk and cream into the United States unless the person by whom it is shipped or transported holds a valid permit from the Secretary of Health, Education, and Welfare.

§ 203. Unfitness for importation

Milk or cream shall be considered unfit for importation—

(a) when all cows producing such milk or cream are not healthy and a physical examination of all such cows has not been made within one year previous to such milk being offered for importation;

(b) when such milk or cream, if raw, is not produced from cows which have passed a tuberculin test applied by a duly authorized official veterinarian of the United States, or of the country in which such milk or cream is produced, within one year previous to the time of the importation, showing that such cows are free from tuberculosis;

(c) when the sanitary conditions of the dairy farm or plant in which it is produced or handled do not score at least fifty points out of one hundred points according to the current methods for scoring as provided by the score cards used by the United States Department of Agriculture;

(d) if the number of bacteria per cubic centimeter exceeds in the case of raw milk three hundred thousand, in the case of raw cream seven hundred and fifty thousand, and in the case of pasteurized milk one hundred thousand, and in the case of pasteurized cream five hundred thousand;

(e) when the temperature of milk or cream at the time of importation exceeds fifty degrees Fahrenheit.

§ 204. Inspection; issue of permits; regulations

(a) The Secretary of Health, Education, and Welfare shall cause such inspections to be made as are necessary to insure that milk and cream are produced and handled in compliance with section 203 of this title. When the Secretary finds that milk or cream is produced and handled so as not to be unfit for importation under clauses (1), (2), and (3) of section 203 of this title, the Secretary shall issue to persons making application therefor permits to ship milk or cream into the United

States. In lieu of the inspections to be made by or under the direction of the Secretary, the Secretary may, in the Secretary's discretion, accept a duly certified statement signed by a duly accredited official of an authorized department of any foreign government or of any State of the United States or any municipality thereof that the provisions in clauses (1), (2), and (3) of section 203 of this title have been complied with. Such certificate shall be in the form prescribed by the Secretary.

(b) The Secretary may, in the Secretary's discretion, waive the requirements of paragraph (4) of section 203 of this title when issuing permits to operators of condenseries in which milk or cream is used when sterilization of the milk or cream is a necessary process, except that no milk or cream shall be imported the bacterial count of which per cubic centimeter in any event exceeds one million two hundred thousand. Such requirements shall not be waived unless the farm producing such milk to be imported is within a radius of fifteen miles of the condensery in which it is to be processed. If milk or cream imported when the requirements of section 203, paragraph (4), of this title, have been so waived, is sold, used, or disposed of in its raw state or otherwise than as condensed milk by any person, the permit shall be revoked and the importer shall be subject to fine, imprisonment, or other penalty prescribed by this subchapter.

(c) The Secretary shall waive the requirements of paragraphs (2) and (5) of section 203 of this title insofar as the same relate to milk when issuing permits to operators of, or to producers for delivery to, creameries and condensing plants in the United States within twenty miles of the point of production of the milk, and who import no raw milk except for pasteurization or condensing. If milk imported when the requirements of paragraphs (2) and (5) of section 203 of this title have been so waived is sold, used, or disposed of in its raw state, or otherwise than as pasteurized, condensed, or evaporated milk by any person, the permit shall be revoked and the importer shall be subjected to fine, imprisonment, or other penalty prescribed by this subchapter.

(d) The Secretary shall make and enforce such regulations as the Secretary deems necessary to carry out the purpose of this subchapter for the issuance of permits to import milk and cream, for the handling of milk and cream, for the inspection of milk, cream, cows, barns, and other facilities used in the production and handling of milk and cream, and for the handling, keeping, transporting, and importing of milk and cream. Unless and until the Secretary provides

for inspections to ascertain that paragraphs (1), (2), and (3) of section 203 of this title have been complied with, the Secretary shall issue temporary permits to any applicants therefor to ship or transport milk or cream into the United States.

(e) The Secretary may suspend or revoke any permit for the shipment of milk or cream into the United States when the Secretary finds that the holder thereof has failed to comply with the provisions of, or has violated, this subchapter, or any of the regulations made under this subchapter, or that the milk or cream brought or shipped by the holder of such permit into the United States is not produced and handled in conformity with, or that the quality thereof does not conform to, all of the provisions of section 203 of this title.

§ 205. Penalties

(a) No person in the United States shall receive milk or cream imported into the United States unless the importation is in accordance with the provisions of this subchapter.

(b) Any person who knowingly violates any provision of this subchapter shall, in addition to all other penalties prescribed by law, be fined not more than \$2,000 or imprisoned not more than one year, or both.

§ 206. State powers concerning milk and cream

Nothing in this subchapter shall be construed to affect the powers of any State, or any political subdivision thereof, to regulate the shipment of milk or cream into, or the handling, sale, or other disposition of milk or cream in, such State or political subdivision after the milk or cream has been lawfully imported under this subchapter.

§ 207. Short title

This subchapter may be cited as the "Federal Import Milk Act".

SUBCHAPTER II—FILLED MILK

§ 221. Definitions

As used in this subchapter—

(a) "Filled milk" means any milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat, so that the resulting product is in imitation or semblance of milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated. This definition does not include any distinctive proprie-

tary food compound not readily mistaken in taste for milk or cream or for evaporated, condensed, or powdered milk, or cream where such compound (1) is prepared and designed for feeding infants and young children and customarily used on the order of a physician; (2) is packed in individual cans containing not more than sixteen and one-half ounces and bearing a label in bold type that the content is to be used only for such purpose; and (3) is shipped in interstate or foreign commerce exclusively to physicians, wholesale and retail druggists, orphan asylums, child-welfare associations, hospitals, and similar institutions and generally disposed of by them.

(b) "Interstate or foreign commerce" means commerce (1) between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; (2) between points within the same State, Territory, or possession, or within the District of Columbia, but through any place outside thereof; or (3) within any Territory or possession, or within the District of Columbia.

(c) "Person" means an individual, partnership, corporation, or association.

§ 222. Filled milk; Congressional finding concerning

Filled milk is an adulterated article of food, injurious to the public health, and its sale constitutes a fraud upon the public.

§ 223. Regulations

The Secretary of Health, Education, and Welfare shall make and enforce such regulations as the Secretary deems necessary to carry out the purposes of this subchapter.

§ 224. Penalties

Any person who manufactures within any Territory or possession, or within the District of Columbia, or ships or delivers for shipment in interstate or foreign commerce, any filled milk, shall be fined not more than \$1,000 or imprisoned not more than one year, or both. When construing and enforcing the provisions of this subchapter, the act, omission, or failure of any person acting for or employed by any individual, partnership, corporation, or association, within the scope of his employment or office, shall in every case be deemed the act, omission, or failure, of each individual, partnership, corporation, or association, as well as of such person.

§ 225. Short title

This subchapter may be cited as the "Federal Filled Milk Act".

CHAPTER 7—TEA IMPORTATION

Sec.

- 261. Substandard tea importation; materials for manufacturing.
- 262. Standards; duplicate samples.
- 263. Importer's bonds and fees; sampling and examination.
- 264. Permit for delivery; inferior grades; partial delivery.
- 265. Examiners.
- 266. Examination according to usages of trade.
- 267. Re-examination by Appeals Board; disposition of tea.
- 268. Procedure for re-examination; assistance of experts.
- 269. Reimporting rejected teas; forfeitures.
- 270. Regulations.
- 271. Short title.

§ 261. Substandard tea importation; materials for manufacturing

(a) No person shall import or bring into the United States any merchandise as tea which is inferior in purity, quality, and fitness for consumption to the standards provided in section 262 of this title.

(b) Nothing in this chapter shall affect or prevent the importation into the United States, under such regulations as the Secretary of Health, Education, and Welfare prescribes, of any merchandise as tea which may be inferior in purity, quality, and fitness for consumption to the standards established by the Secretary, or of any tea waste, tea siftings, or tea sweepings, for the sole purpose of manufacturing theine, caffeine, or other chemical products whereby the identity and character of the original material is entirely destroyed or changed. Importers and manufacturers who import such tea, tea waste, tea siftings, or tea sweepings into the United States shall give suitable bond, to be subject to the approval only of the collector of customs at the port of entry, conditioned that said imported material shall be used only for the purposes provided in this subsection, under such regulations as may be prescribed by the Secretary.

§ 262. Standards; duplicate samples

The Board of Tea Experts shall prepare and submit standard samples of tea to the Secretary of Health, Education, and Welfare who, upon the Board's recommendation, shall fix and establish uniform standards of purity, quality, and fitness for consumption of all kinds of teas imported into the United States. The Secretary shall procure and deposit in the customhouses of the ports of New York, Chicago, San Francisco, and such other ports as the Secretary may determine, duplicate samples of such standards, and the Secretary shall procure a sufficient number of other duplicate samples to supply the importers and dealers in tea at all ports desiring the same at cost. All teas, or merchandise described as tea, of inferior purity, quality, and fitness for consumption to such standards shall be deemed within the prohibition of section 261 of this title.

§ 263. Importer's bonds and fees; sampling and examination

(a) On making entry at the customhouse of all teas, or merchandise described as tea, imported into the United States, the importer or consignee shall give a bond to the collector of the port that such merchandise shall not be removed from the warehouse until released by the collector, after it shall have been duly examined with reference to its purity, quality, and fitness for consumption. For the purpose of such examination samples of each line in every invoice of tea shall be submitted by the importer or consignee to the examiner, together with the sworn statement of such importer or consignee that such samples represent the true quality of each part of the invoice and accord with the specifications therein contained, or in the discretion of the Secretary, such samples shall be obtained by the examiner and compared by him with the standards established by this chapter. Where entry is made at ports where there is no qualified examiner as provided in section 265 of this title, the consignee or importer shall furnish such samples and sworn statement to the collector or other revenue officer to whom is committed the collection of duties, who shall also draw or cause to be drawn samples of each line in every invoice and shall forward the same to a duly qualified examiner as provided in that section. The bond required by this section shall also be conditioned for the payment of all customhouse charges which may attach to such merchandise prior to its being released or destroyed, as the case may be, under the provisions of this chapter.

(b) The collector shall not examine for importation, or release, any tea, or merchandise described as tea, under this chapter unless the importer or consignee thereof, prior to such examination, has paid for deposit into the Treasury of the United States as miscellaneous receipts, a fee of 3.5 cents for each hundred weight or fraction thereof of such tea and merchandise.

§ 264. Permit for delivery; inferior grades; partial delivery

If, after an examination as provided in section 263 of this title, the tea is found by the examiner to be equal in purity, quality, and fitness for consumption to the standards provided in this chapter, and no reexamination is demanded by the collector as provided in section 267 of this title, a permit shall at once be granted to the importer or consignee declaring the tea free from the control of the customs authorities. If tea, or merchandise described as tea, is found, in the opinion of the examiner, to be inferior in purity, quality, and

fitness for consumption to such standards, the importer or consignee shall be immediately notified, and the tea, or merchandise described as tea, shall not be released by the customhouse, unless on a reexamination called for by the importer or consignee the finding of the examiner is found to be erroneous. If a portion of the invoice is passed by the examiner, a permit shall be granted for that portion and the remainder held for further examination, as provided in said section 267.

§ 265. Examiners

The examination provided for by this chapter shall be made by a duly qualified examiner at a port where standard samples are established. Where the merchandise is entered at ports where there is no qualified examiner, the examination shall be made at that one of said ports which is nearest the port of entry, and for this purpose samples obtained in the manner prescribed by section 263 of this title shall be forwarded to the proper port by the collector or chief officer at the port of entry.

§ 266. Examination according to usages of trade

In all cases of examination or reexamination of teas, or merchandise described as tea, by examiners or the United States Board of Tea Appeals under the provisions of this chapter, the purity, quality, and fitness for consumption of the same shall be tested according to the usages and customs of the tea trade, including the testing of an infusion of the same in boiling water, and, if necessary, chemical analysis.

§ 267. Reexamination by Appeals Board; disposition of tea

(a) If the collector, importer, or consignee protests against the finding of the examiner, the matter in dispute shall be referred for decision to the United States Board of Tea Appeals.

(b) If the Board, after examination, finds the tea in question to be equal in purity, quality, and fitness for consumption to the proper standards, the collector shall issue a permit for its release and delivery to the importer.

(c) If upon final reexamination by the Board the tea is found to be inferior in purity, quality, and fitness for consumption to the said standards, the importer or consignee shall give a bond, with security satisfactory to the collector, to export said tea, or merchandise described as tea, out of the limits of the United States within a period of six months after such final reexamination, and if the same has not been exported within the time specified, the collector, at the expiration of that time, shall cause the same to be destroyed.

§ 268. Procedure for reexamination ; assistance of experts

In cases of reexamination of teas, or merchandise described as teas, by the United States Board of Tea Appeals in pursuance of the provisions of this chapter, the examiner shall put up and seal samples of the tea, or merchandise described as tea, in dispute, in the presence of the importer or consignee if he so desires, and transmit them to the Board, together with a copy of his finding, setting forth the cause of condemnation and the claim or ground of the protest of the importer relating to the same. Such samples and papers shall be distinguished by an identifying mark.

The decision of the Board shall be in writing, signed by its members, and transmitted with the record and samples to the collector within three days after its rendition. The collector shall forthwith furnish the examiner and the importer or consignee with a copy of such decision.

The United States Board of Tea Appeals may obtain the advice, when necessary, of persons skilled in the examination of teas, who shall each receive for his services in any particular case a compensation not exceeding \$5.

§ 269. Reimporting rejected teas; forfeiture

No imported teas which have been rejected by an examiner or by the United States Board of Tea Appeals, and exported under the provisions of this chapter, shall be reimported into the United States. Any such teas so reimported shall be forfeited.

§ 270. Regulations

The Secretary of Health, Education, and Welfare may enforce this chapter by appropriate regulations.

§ 271. Short title

This chapter and sections 3 and 4 of this title may be cited as the "Federal Import Tea Act".

CHAPTER 9—CAUSTIC POISONS

Sec.

311. Definitions.

312. Misbranded shipments.

313. Misbranded imports.

314. Removal of labels.

315. Enforcement.

316. Libel for condemnation.

317. Penalties.

318. Institution of condemnation and criminal proceedings.

319. Construction ; application of other provisions.

320. Short title.

§ 311. Definitions

As used in this chapter, unless the context otherwise requires—

(a) “Dangerous caustic or corrosive substance” means:

(1) hydrochloric acid and any preparation containing free or chemically unneutralized hydrochloric acid (HCl) in a concentration of 10 per centum or more;

(2) sulphuric acid and any preparation containing free or chemically unneutralized sulphuric acid (H_2SO_4) in a concentration of 10 per centum or more;

(3) nitric acid or any preparation containing free or chemically unneutralized nitric acid (HNO_3) in a concentration of 5 per centum or more;

(4) carbolic acid ($\text{C}_6\text{H}_5\text{OH}$), otherwise known as phenol, and any preparation containing carbolic acid in a concentration of 5 per centum or more;

(5) oxalic acid and any preparation containing free or chemically unneutralized oxalic acid ($\text{H}_2\text{C}_2\text{O}_4$) in a concentration of 10 per centum or more;

(6) any salt of oxalic acid and any preparation containing any such salt in a concentration of 10 per centum or more;

(7) acetic acid or any preparation containing free or chemically unneutralized acetic acid ($\text{HC}_2\text{H}_3\text{O}_2$) in a concentration of 20 per centum or more;

(8) hypochlorous acid, either free or combined, and any preparation containing the same in a concentration so as to yield 10 per centum or more by weight of available chlorine, excluding calx chlorinata, bleaching powder, and chloride of lime;

(9) potassium hydroxide and any preparation containing free or chemically unneutralized potassium hydroxide (KOH), including caustic potash and Vienna paste, in a concentration of 10 per centum or more;

(10) sodium hydroxide and any preparation containing free or chemically unneutralized sodium hydroxide (NaOH), including caustic soda and lye, in a concentration of 10 per centum or more;

(11) silver nitrate, sometimes known as lunar caustic, and any preparation containing silver nitrate (AgNO_3) in a concentration of 5 per centum or more; and

(12) ammonia water and any preparation containing free or chemically uncombined ammonia (NH_3), including ammonium hydroxide and “hartshorn”, in a concentration of 5 per centum or more.

(b) "Misbranded parcel, package, or container" means a retail parcel, package, or container of any dangerous caustic or corrosive substance not bearing a conspicuous, easily legible label or sticker, containing—

(1) the common name of the substance ;

(2) the name and place of business of the manufacturer, packer, seller, or distributor ;

(3) the word "poison", running parallel with the main body of reading matter on the label or sticker, on a clear, plain background of a distinctly contrasting color, in uncondensed gothic capital letters, the letters to be not less than twenty-four-point size unless there is on the label or sticker no other type so large, in which event the type shall be not smaller than the largest type on the label or sticker ; and

(4) directions for treatment in case of accidental personal injury by any dangerous caustic or corrosive substance, except that such directions need not appear on labels or stickers, on parcels, packages, or containers at the time of shipment or of delivery for shipment by manufacturers and wholesalers for other than household use.

(c) "Interstate or foreign commerce" means commerce (1) between any State, Territory, or possession, or the District of Columbia, and any place outside thereof, or (2) between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof, or (3) within any Territory or possession, or the District of Columbia.

(d) "Person" means an individual, partnership, corporation, or association.

§ 312. Misbranded shipments

(a) No person shall ship or deliver for shipment in interstate or foreign commerce or receive from shipment in such commerce any dangerous caustic or corrosive substance for sale or exchange, or sell or offer for sale any such substance in any Territory or possession or in the District of Columbia, in a misbranded parcel, package, or container suitable for household use.

(b) The provisions of subsection (a) of this section do not apply—

(1) to any regularly established common carrier shipping or delivering for shipment, or receiving from shipment, any such substance in the ordinary course of its business as a common carrier ; nor

(2) to any person in respect of any such substance shipped or delivered for shipment, or received from shipment, for export to any

foreign country, in a parcel, package, or container branded in accordance with the specifications of a foreign purchaser and in accordance with the laws of the foreign country ; nor

(3) to any dealer who establishes a guaranty signed by, and containing the name and address of, the wholesaler, jobber, manufacturer, or other party residing in the United States, from whom he purchased such articles, to the effect that the articles are not misbranded within the meaning of this chapter. In such case the person giving such guaranty shall be amenable to the prosecutions, fines, and other penalties which would otherwise attach, in due course, to the dealer under the provisions of this chapter.

§ 313. Misbranded imports

(a) Whenever any dangerous caustic or corrosive substance is offered for importation and the Secretary of Health, Education, and Welfare has reason to believe that such substance is being shipped in interstate or foreign commerce in violation of section 312 of this title, the Secretary shall give due notice and opportunity for hearing thereon to the owner or consignee and certify such fact to the Secretary of the Treasury, who shall thereupon either (1) refuse admission and delivery to the consignee of such substance, or (2) deliver such substance to the consignee pending examination, hearing, and decision in the matter, on the execution of a penal bond to the amount of the full invoice value of such substance, together with the duty thereon, if any, and to the effect that on refusal to return such substance for any cause to the Secretary of the Treasury when demanded, for the purpose of excluding it from the country or for any other purpose, the consignee shall forfeit the full amount of the bond.

(b) If, after proceeding in accordance with subsection (a) of this section, the Secretary is satisfied that such substance offered for importation was shipped in interstate or foreign commerce in violation of any provision of this chapter, the Secretary shall certify the fact to the Secretary of the Treasury, who shall thereupon notify the owner or consignee and cause the sale or other disposition of such substance refused admission and delivery or entered under bond, unless it is exported by the owner or consignee or labeled by him so as to conform to the law within three months from the date of such notice, under such regulations as the Secretary of the Treasury may prescribe. All charges for storage, cartage, or labor on any such substance refused admission or delivery or entered upon bond shall be paid by the owner or consignee. In default of such payment such charges shall constitute

a lien against any future importations made by such owner or consignee.

§ 314. Removal of labels

No person shall alter, mutilate, destroy, obliterate, or remove any label or sticker required by this chapter to be placed on any dangerous caustic or corrosive substance, if such substance is being—

- (1) shipped in interstate or foreign commerce; or
- (2) held for sale or exchange after having been so shipped; or
- (3) held for sale or exchange in any Territory or possession or in the District of Columbia.

§ 315. Enforcement

(a) Except as otherwise specifically provided in this chapter, the Secretary of Health, Education, and Welfare shall enforce its provisions.

(b) For enforcing the provisions of sections 313, 316, and 317 of this title, the Secretary may cause investigations, inspections, analyses, and tests to be made and samples to be collected, of any dangerous caustic or corrosive substance. The Department of Health, Education and Welfare shall pay to the person entitled, upon his request, the reasonable market value of any such sample taken. If it appears from the inspection, analysis, or test of any dangerous caustic or corrosive substance that such substance is in a misbranded package, parcel, or container suitable for household use, the Secretary shall cause notice thereof to be given to any person who may be liable for any violation of section 312 or 314 of this title in respect of such substance. Any person so notified shall be given an opportunity to be heard under the Secretary's regulations. If it appears that such person has violated the provisions of section 312 or 314 of this title, the Secretary shall at once certify the facts to the proper United States attorney, with a copy of the results of the inspection, analysis, or test duly authenticated under oath by the person making it.

(c) For the enforcement of his functions under this chapter the Secretary may—

- (1) prescribe and promulgate necessary regulations;
- (2) cooperate with any department or agency of the Government, with any State, Territory, or possession, or with the District of Columbia, or with any department, agency, or political subdivision thereof, or with any person;
- (3) appoint officers and employees necessary for the execution of this chapter and fix their salaries in accordance with the Classification Act of 1949;

(4) make such expenditures, including expenditures for personal services and rent at the seat of government and elsewhere, and for law books, books of reference, and periodicals, required for the execution of the Secretary's functions under this chapter and as provided for by the Congress from time to time; and

(5) give notice, by publication in such manner as the Secretary prescribes by regulation, of the judgment of the court in any case under the provisions of this chapter.

§ 316. Libel for condemnation

(a) Any dangerous caustic or corrosive substance in a misbranded parcel, package, or container suitable for household use shall be liable to be proceeded against in the United States district court for any judicial district in which the substance is found and to be seized for confiscation by a process of libel for condemnation, if such substance is being—

- (1) shipped in interstate or foreign commerce, or
- (2) held for sale or exchange after having been so shipped, or
- (3) held for sale or exchange in any Territory or possession or in the District of Columbia.

(b) If such substance is condemned as misbranded by the court it shall be disposed of in the discretion of the court—

- (1) by destruction;
- (2) by delivery to the owner thereof upon the payment of legal costs and charges and execution and delivery of a good and sufficient bond to the effect that such substance will not be sold or otherwise disposed of in any jurisdiction contrary to the provisions of this chapter or the laws of such jurisdiction.

(3) by sale. The proceeds of the sale, less legal costs and charges, shall be paid into the Treasury as miscellaneous receipts. Such substance shall not be sold in any jurisdiction contrary to the provisions of this chapter or the laws of such jurisdiction, and the court may require the purchaser at any such sale to label such substance in compliance with law before the delivery thereof; or

(c) Proceedings in such libel cases shall conform, as nearly as may be, to suits in rem in admiralty, except that either party may demand trial by jury on any issue of fact if the value in controversy exceeds \$20. In case of a jury trial the verdict of the jury shall have the same effect as a finding of the court upon the facts. All such proceedings shall be at the suit and in the name of the United States.

§ 317. Penalties

(a) Any person who violates any provision of section 312 or 314 of this title shall be fined not more than \$1,000 or imprisoned not more than one year, or both. Any person who commits such a violation after one conviction under this section has become final shall be fined not more than \$10,000 or imprisoned not more than three years, or both.

(b) Notwithstanding the provisions of subsection (a) of this section, any person who violates any provision of section 312 or 314 of this title, with intent to defraud or mislead, shall be fined not more than \$10,000 or imprisoned not more than three years, or both.

§ 318. Institution of condemnation and criminal proceedings

Each United States attorney to whom the Secretary shall report any violation of section 312 or 314 of this title or to whom any health, medical, or drug officer or agent of any State, Territory, or possession, or of the District of Columbia presents satisfactory evidence of any such violation, shall cause libel for condemnation and criminal proceedings under sections 316 and 317 of this title to be commenced and prosecuted in the proper court of the United States, without delay, for the enforcement of the condemnation and penalties provided in such sections.

§ 319. Construction; application of other provisions

(a) This chapter is not to be construed as modifying or limiting in any way the right of any person to manufacture, pack, ship, sell, barter, and distribute dangerous caustic or corrosive substances in parcels, packages, or containers, labeled as required by this chapter.

(b) The provisions of this chapter shall be held to be in addition to and not in substitution for the provisions of the following:

(1) chapter 3 of this title;

(2) chapter 6 of Title 7;

(3) the Act entitled "An Act to regulate the practice of pharmacy and the sale of poisons in the District of Columbia, and for other purposes", approved May 7, 1906, as amended.

§ 320. Short title

This chapter may be cited as the "Federal Caustic Poison Act".

PART II.—ANIMALS, POULTRY AND MEATS

CHAPTER	Sec.
51. DEPARTMENT OF AGRICULTURE.....	451
53. MEAT INSPECTION.....	491
55. ANIMAL AND POULTRY DISEASE PREVENTION ; TRANSPORTATION, IMPORT, AND EXPORT.....	551
57. SERUMS AND ANALOGOUS PRODUCTS.....	611

CHAPTER 51—DEPARTMENT OF AGRICULTURE

Sec.

451. Administration of Part II; delegation of functions.

§ 451. Administration of Part II; delegation of functions

The provisions of this part shall be administered by the Secretary of Agriculture, except as otherwise provided herein. Such Secretary's functions under this part shall be performed by him or, subject to his direction and control, by such officers and agencies of the Department of Agriculture as he designates.

CHAPTER 53—MEAT INSPECTION

Sec.

491. Definitions.

492. Ante-mortem inspections.

493. Post-mortem inspections.

494. Meat food products.

495. Canning or packing meats and products; labels.

496. Inspection of establishments.

497. Time of inspections.

498. Meat for export; inspection; clearance.

499. Inspector's certificates.

500. Inspection, stamps or marks.

501. Farmers and retail butchers and dealers, exemptions.

502. Inspectors; appointment, powers, and duties.

503. Regulations.

504. Cost of inspections.

505. Transportation of uninspected and unmarked articles.

506. Transportation or sale in violation of chapter.

507. Forgery or misuse of marks or certificates.

508. Penalties generally.

509. Penalty for sale or transportation of unfit products by exempted persons.

510. Bribery; acceptance of gifts.

511. Horse meat.

512. Dairy products for export.

513. Reindeer.

§ 491. Definitions

As used in this chapter—

(a) "establishment" means a slaughtering, canning, salting, packing, rendering, or similar establishment;

(b) "farmer" means any natural person or partnership chiefly engaged in producing agricultural products on whose farm the number of cattle, calves, sheep, lambs, swine, or goats is in keeping with the size of the farm or with the volume or character of the agricultural products produced thereon, but does not mean any person or partnership engaged in producing agricultural products who—

(1) actively engages in buying or trading in cattle, calves, sheep, lambs, swine, or goats; or

(2) actively engages, directly or indirectly, in conducting a business which includes the slaughter of cattle, calves, sheep, lambs, swine, or goats for food purposes; or

(3) actively engages, directly or indirectly, in buying or selling meat or meat food products other than those prepared by any farmer on the farm; or

(4) actively engages, directly or indirectly, in salting, curing, or canning meat, or in preparing sausage, lard, or other meat food products; or

(5) slaughters, or permits any person to slaughter, on his or their farm cattle, calves, sheep, lambs, swine, or goats which are not actually owned by him or them;

(c) "inspector" means an inspector appointed by the Secretary of Agriculture under the provisions of this chapter;

(d) "retail butcher" or "retail dealer" means any person chiefly engaged in selling meat or meat food products to consumers only, except that the Secretary, at his discretion, may permit any retail butcher or retail dealer to transport in interstate or foreign commerce to consumers and meat retailers in any one week not more than five carcasses of cattle, twenty-five carcasses of calves, twenty carcasses of sheep, twenty-five carcasses of lambs, ten carcasses of swine, twenty carcasses of goats, or twenty-five carcasses of goat kids, or the equivalent of fresh meat therefrom, and to transport in interstate or foreign commerce to consumers only meat and meat food products which have been salted, cured, canned, or prepared as sausage, lard, or other meat food products, and which have not been inspected, examined, and marked as "Inspected and Passed" in accordance with this chapter and with the Secretary's rules and regulations;

5. "Secretary" means the Secretary of Agriculture.

§ 492. Ante-mortem inspections

For the purpose of preventing the use in interstate or foreign commerce of meat and meat food products which are unsound, unhealthful, unwholesome, or otherwise unfit for human food, the Secretary may cause to be made an examination and inspection of all cattle, sheep, swine, and goats, the meat and meat food products of which are to be used in interstate or foreign commerce, before they are allowed to enter into any establishment in which they are to be slaughtered. All such animals found on such inspection to show symptoms of disease shall be set apart and slaughtered separately from all other such animals. When so slaughtered the carcasses of such animals shall be subject to a careful examination and inspection, under the Secretary's rules and regulations, as provided for in this chapter.

§ 493. Post-mortem inspections

For the purpose set forth in section 492 of this title the Secretary shall cause to be made a post-mortem examination and inspection of the carcasses and parts thereof of all cattle, sheep, swine, and goats, which are to be prepared for human consumption at any establishment in any State or Territory or the District of Columbia for transportation or sale as articles of interstate or foreign commerce.

The carcasses and parts thereof of all such animals found to be sound, healthful, wholesome, and fit for human food shall be marked, stamped, tagged, or labeled as "Inspected and Passed".

All carcasses and parts thereof found to be unsound, unhealthful, unwholesome, or otherwise unfit for human food shall be marked, stamped, tagged, or labeled as "Inspected and Condemned", and all carcasses and parts thereof thus inspected and condemned shall be destroyed for food purposes by the establishment in the presence of an inspector.

After the first inspection, the inspectors shall, when they deem it necessary, reinspect the carcasses or parts thereof and if upon such reinspection any carcass or any part thereof is found to be unsound, unhealthful, unwholesome, or otherwise unfit for human food, it shall be destroyed for food purposes by the establishment in the presence of an inspector.

The Secretary may remove inspectors from any establishment which fails so to destroy any carcass or part thereof required to be destroyed by this section.

The provisions of this section apply to all carcasses or parts of carcasses of cattle, sheep, swine, and goats, or the meat or meat food products thereof which may be brought into any establishment, and such examination and inspection shall be had before the said carcasses or parts thereof are allowed to enter into any department wherein they are to be treated and prepared for meat food products. The provisions of this section also apply to all such products, which, after having been issued from any establishment, are returned to the same or to any similar establishment where such inspection is maintained.

§ 494. Meat food products

For the purpose set forth in section 492 of this title the Secretary shall cause to be made an examination and inspection of all meat food products prepared for interstate or foreign commerce in any establishment.

The inspectors shall mark, stamp, tag, or label as "Inspected and Passed" all such products found to be sound, healthful, and wholesome, and which contain no dyes, chemicals, preservatives, or ingredients which render such meat, or meat food products unsound, unhealthful, unwholesome, or unfit for human food.

The inspectors shall label, mark, stamp, or tag as "Inspected and Condemned" all such products found unsound, unhealthful, and unwholesome, or which contain dyes, chemicals, preservatives, or ingredients which render such meat or meat food products unsound, unhealthful, unwholesome, or unfit for human food, and all such condemned meat food products shall be destroyed for food purposes by the establishment in the presence of an inspector. The Secretary may remove inspectors from any establishment which fails to so destroy such condemned meat food products.

Subject to the Secretary's rules and regulations the provisions of this section in regard to preservatives shall not apply to meat food products for export to any foreign country and which are prepared or packed according to the specifications or directions of the foreign purchaser, when no substance is used in the preparation or packing thereof in conflict with the laws of the foreign country to which said article is to be exported. If said article is in fact sold or offered for sale for domestic use or consumption, this paragraph shall not exempt said article from the operation of all the other provisions of this chapter.

§ 495. Canning or packing meats and products; labels

When any meat or meat food product prepared for interstate or foreign commerce which has been inspected under this chapter and marked "Inspected and Passed" is placed or packed in any can, pot, tin, canvas, or other receptacle or covering in any establishment where inspection is maintained under this chapter, the person preparing said product shall cause a label to be attached to said receptacle or covering, under the supervision of an inspector. Such label shall state that the contents thereof have been "Inspected and Passed" under the provisions of this chapter. No inspection and examination of meat or meat food products deposited or inclosed in cans, tins, pots, canvas, or other receptacle or covering in any such establishment shall be deemed to be complete until such meat or meat food products have been sealed or inclosed in said receptacle or covering under the supervision of an inspector.

No such meat or meat food products shall be sold or offered for sale by any person in interstate or foreign commerce under any false or deceptive name. Established trade name or names which are usual to such products and which are not false and deceptive and which are approved by the Secretary are permitted.

§ 496. Inspection of establishments

The Secretary shall cause inspections to be made, by experts in sanitation or by other competent inspectors, of all establishments defined in section 491 of this title in which cattle, sheep, swine, and goats are slaughtered and the meat and meat food products thereof are prepared for interstate or foreign commerce. The inspections shall be such as are necessary to inform the Secretary concerning the sanitary conditions of the establishments, and to enable him to prescribe the rules and regulations of sanitation under which such establishments shall be maintained. Where the sanitary conditions of any such establishment are such that the meat or meat food products are rendered unclean, unsound, unhealthful, unwholesome, or otherwise unfit for human food, the Secretary shall refuse to allow said meat or meat food products to be labeled, marked, stamped, or tagged as "Inspected and Passed."

§ 497. Time of inspections

(a) The examinations and inspections required by sections 492, 493, 494, and 495 of this title shall be made during the nighttime as well as during the daytime when the slaughtering of the animals or preparation of the meat or meat food products is conducted during the nighttime.

(b) For the purposes of any examination and inspection under this chapter, the inspectors shall have access at all times, by day or night, whether the establishment is being operated or not, to every part of the establishment.

§ 498. Meat for export; inspection; clearance

(a) The Secretary shall cause to be made a careful inspection of the carcasses and parts thereof of all cattle, sheep, swine, and goats, when the fresh, salted, canned, corned, packed, cured, or otherwise prepared meat or meat food products of such animals is intended and offered for export to any foreign country, at such times and places and in such manner as he deems proper.

(b) No clearance shall be given to any vessel having on board any fresh, salted, canned, corned, or packed beef, mutton, pork, or goat meat, for export to and sale in a foreign country from any port in the

United States, until the owner or shipper thereof shall obtain a certificate from an inspector that the cattle, sheep, swine, and goats from which such meat or meat food product was obtained, were sound and healthy at the time of inspection, and that their meat or meat food product is sound and wholesome, unless the Secretary has waived the requirement of such certificate for the country to which such meat or meat food product is to be exported.

§ 499. Inspectors' certificates

The inspectors may give official certificates of the sound and wholesome condition of cattle, sheep, swine, and goats, their carcasses and products as described in this chapter.

One copy of each such certificate shall be filed in the Department of Agriculture, another copy shall be delivered to the owner or shipper, and when the carcasses of cattle, sheep, swine, and goats, and the meat and meat food products thereof are sent abroad, a third copy shall be delivered to the chief officer of the vessel on which the shipment is made.

§ 500. Inspection, stamps or marks

The inspectors shall refuse to stamp, mark, tag, or label as "Inspected and Passed" any carcass or any part thereof, or meat food product therefrom, prepared in any establishment subject to this chapter until the same has actually been inspected and found to be sound, healthful, wholesome, and fit for human food, and to contain no dyes, chemicals, preservatives, or ingredients which render such meat food product unsound, unhealthful, unwholesome, or unfit for human food, and to have been prepared under proper sanitary conditions.

§ 501. Farmers and retail butchers and dealers, exemptions

(a) The provisions of this chapter requiring inspection to be made by the Secretary do not apply to animals slaughtered by any farmer on the farm and sold and transported in interstate or foreign commerce, nor to retail butchers and retail dealers in meat and meat food products, supplying their customers.

No meat and meat food products derived from animals slaughtered by any farmer on the farm which are salted, cured, canned, or prepared into sausage, lard, or other meat food products at any place other than by the farmer on the farm upon which the animals were slaughtered shall be transported in interstate or foreign commerce under the farmers' exemption provided in this section. All fresh meat and all farm-cured or prepared meat and meat food products

derived from animals slaughtered by any farmer on the farm which are to be used in interstate or foreign commerce shall be clearly marked with the name and address of the farmer on whose farm the animals were slaughtered.

(b) The Secretary may maintain the inspection provided for in this chapter at any establishment notwithstanding the exemptions contained in this section, and notwithstanding that the persons operating the same may be retail butchers and retail dealers or farmers. Where the Secretary establishes such inspection, the provisions of this chapter shall apply notwithstanding such exemptions.

§ 502. Inspectors; appointment, powers, and duties

The Secretary shall from time to time appoint inspectors to make the examinations and inspections provided for under this chapter and to perform such other duties as are required by this chapter and the Secretary's rules and regulations.

§ 503. Regulations

The Secretary shall make such rules and regulations as are necessary for the efficient execution of the provisions of this chapter. All inspections and examinations under this chapter shall be made in the manner provided in the Secretary's rules and regulations which are not inconsistent with this chapter.

§ 504. Cost of inspections

The United States shall bear the cost of inspections rendered under the requirements of this chapter except the cost of overtime pursuant to section 394 of title 7.

§ 505. Transportation of uninspected and unmarked articles

No person shall transport or offer for transportation, and no carrier of interstate or foreign commerce shall transport or receive for transportation from one State or Territory or the District of Columbia or to any other State or Territory or the District of Columbia, or to any place under the jurisdiction of the United States, or to any foreign country, any carcasses or parts thereof, meat, or meat food products thereof which have not been inspected, examined, and marked as "Inspected and Passed", in accordance with the terms of this chapter and with the Secretary's rules and regulations.

§ 506. Transportation or sale in violation of chapter

No person engaged in the interstate commerce of meat or meat food products shall transport or offer for transportation, sell or offer to sell, any such meat or meat food products in any State or Territory or in the District of Columbia or any place under the jurisdiction of

the United States, other than in the State or Territory or in the District of Columbia or any place under the jurisdiction of the United States in which the slaughtering, packing, canning, rendering, or other similar establishment owned, leased, or operated by such person is located unless and until such person shall have complied with all of the provisions of this chapter.

§ 507. Forgery or misuse of marks or certificates

No person shall forge, counterfeit, simulate, or falsely represent, or shall without proper authority use, fail to use, or detach, or shall knowingly or wrongfully alter, deface, or destroy, or fail to deface or destroy, any of the marks, stamps, tags, labels, or other identification devices provided for in this chapter, or in and as directed by the rules and regulations prescribed under this chapter by the Secretary of Agriculture, on any carcasses, parts of carcasses, or the food product, or containers thereof, subject to the provisions of this chapter or any certificate in relation thereto, authorized or required by this chapter or by the said rules and regulations of the Secretary of Agriculture.

§ 508. Penalties generally

Except as provided in sections 509 and 510 of this title, whoever violates any of the provisions of this chapter shall be fined not more than \$10,000 or imprisoned not more than one year, or both.

§ 509. Penalty for sale or transportation of unfit products by exempted persons

Whoever, being a farmer, retail butcher, or retail dealer acting under the exemptions provided in section 502 of this title, sells or offers for sale or transportation for interstate or foreign commerce any meat or meat food products which are diseased, unsound, unhealthful, unwholesome, or otherwise unfit for human food, knowing that such meat food products are intended for human consumption, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

§ 510. Bribery; acceptance of gifts

(a) Whoever gives, pays, or offers, directly or indirectly, to any inspector, deputy inspector, chief inspector, or any other officer or employee of the United States authorized to perform any of the duties prescribed by this chapter or by the Secretary's rules and regulations, any money or other thing of value, with intent to influence such inspector, deputy inspector, chief inspector, or other officer or employee of the United States in the discharge of any duty provided for in this chapter, shall be fined not more than \$10,000 or imprisoned not more than three years, or both.

(b) Whoever, being an inspector, deputy inspector, chief inspector, or other officer or employee of the United States authorized to perform any of the duties prescribed by this chapter, accepts any money, gift, or other thing of value from any person, given with intent to influence his official action, or who receives or accepts from any person engaged in interstate or foreign commerce any gift, money, or other thing of value, given with any purpose or intent whatsoever, shall be summarily discharged from office and shall be fined not more than \$10,000 or imprisoned not more than three years, or both.

§ 511. Horse meat

(a) No person shall transport or offer for transportation, and no carrier of interstate or foreign commerce shall transport or receive for transportation from one State or Territory or the District of Columbia to any other State or Territory or the District of Columbia or to any place under the jurisdiction of the United States or to any foreign country, any equine meat or food products thereof unless plainly and conspicuously labeled, marked, branded or tagged "Horse meat" or "Horse-meat Product", as the case may be, under rules and regulations prescribed by the Secretary.

(b) All the penalties, terms and provisions in this chapter, except the exemption in section 501 of this title applying to animals slaughtered by any farmer on a farm and to retail butchers and retail dealers in meat food products supplying their customers, shall be applicable to (1) horses, their carcasses, parts of carcasses, and meat food products thereof, (2) the establishments and other places where such animals are slaughtered or the meat or meat food products thereof are prepared or packed for interstate or foreign commerce, and (3) all persons who slaughter such animals or prepare or handle such meat or meat food products for interstate or foreign commerce.

§ 512. Dairy products for export

This chapter shall be deemed to include dairy products intended for exportation to any foreign country. The Secretary may apply, under rules and regulations prescribed by him, the provisions of this chapter for inspection and certification appropriate for ascertaining the purity and quality of such products, and may cause them to be so marked, stamped, or labeled as to secure their identity and make known in the markets of foreign countries to which they may be sent from the United States their purity, quality, and grade. All the provisions of this chapter relating to live cattle and products thereof for export shall apply to dairy products so inspected and certified.

§ 513. Reindeer

The provisions of this chapter may be extended to the inspection of reindeer.

CHAPTER 55—ANIMAL AND POULTRY DISEASE PREVENTION; TRANSPORTATION, IMPORT, AND EXPORT

Sec.

- 551. Measures and regulations to prevent introduction or spread of disease.
- 552. Control of diseases; cooperation with States.
- 553. Research laboratories for foot-and-mouth and other diseases.
- 554. Appointment of agents to make recommendations.
- 555. Cooperation with Mexico; foot-and-mouth disease and rinderpest; reports to Congress.
- 556. Cattle grubs, research and eradication.
- 557. International boundary fences.
- 558. Regulation of transportation and exportation generally.
- 559. Quarantine of infected areas.
- 560. Regulations for transportation from quarantined areas.
- 561. Transportation from quarantined areas prohibited; exceptions.
- 562. Transportation of diseased livestock or poultry prohibited.
- 563. Cattle reacting to tuberculin test, transportation of.
- 564. Domestic animals reacting to test for paratuberculosis or brucellosis.
- 565. Regulation and promotion of exports.
- 566. Suspension of importation.
- 567. Importation of diseased or exposed animals and poultry prohibited.
- 568. Importation prohibited except at quarantine stations.
- 569. Quarantine of imported animals and poultry.
- 570. Inspection and disposition of imported animals and poultry.
- 571. Disease control in District of Columbia.
- 572. Inspection by Department as precluding other inspections and fees.
- 573. Penalties.
- 574. Prosecution of violations; venue.

§ 551. Measures and regulations to prevent introduction or spread of disease

The Secretary of Agriculture may—

(1) make regulations and take measures to prevent the introduction or dissemination of the contagion of any communicable disease of animals or poultry from a foreign country into the United States or from one State or Territory of the United States or the District of Columbia to another, and

(2) seize, quarantine, and dispose of any hay, straw, forage, or similar material, or any meats, hides, or other animal or poultry products coming from an infected foreign country to the United States, or from one State or Territory or the District of Columbia in transit to another State or Territory or the District of Columbia whenever in his judgment such action is advisable to guard against the introduction or spread of such contagion.

§ 552. Control of diseases; cooperation with States

(a) The Secretary of Agriculture shall prepare rules and regulations for the speedy and effectual control and eradication of dangerous communicable diseases of domestic animals and poultry.

He shall certify such rules and regulations to the executive authority of each State and Territory, and invite said authorities to cooperate in the execution and enforcement of the provisions of this chapter. Whenever the plans and methods of the Secretary are accepted by any State or Territory in which any such disease is declared to exist, or whenever such State or Territory adopts plans and methods for the control and eradication of the disease and such plans and methods are accepted by the Secretary of Agriculture, and whenever the governor of a State or other properly constituted authorities signify their readiness to cooperate for the extinction of the disease in conformity with the provisions of this chapter, the Secretary may expend so much of the money appropriated for carrying out the provisions of this chapter as may be necessary in such investigations, and in such disinfection and quarantine measures as may be necessary to prevent the spread of the disease from one State or Territory into another.

(b) The Secretary of Agriculture, either independently or in cooperation with States or political subdivisions thereof, farmers' associations, and similar organizations, and individuals, may control and eradicate tuberculosis and paratuberculosis of animals, avian tuberculosis, brucellosis of domestic animals, southern cattle ticks, hog cholera and related swine diseases, scabies in sheep and cattle, dourine in horses, scrapie and blue tongue in sheep, incipient or potentially serious minor outbreaks of diseases in animals and poultry, and communicable diseases of animals and poultry which in the opinion of the Secretary constitute an emergency and threaten the livestock industry of the country, including the purchase and destruction of diseased or exposed animals and poultry, or the destruction of such animals and poultry and the payment of indemnities therefor, in accordance with such regulations as the Secretary prescribes. As used in this subsection, the term "State" includes the District of Columbia and the Territories and possessions of the United States.

§ 553. Research laboratories for foot-and-mouth and other diseases

The Secretary of Agriculture may establish research laboratories, including the acquisition of necessary land, buildings, or facilities, and also the making of research contracts under the authority contained in section 427i (a) of Title 7, for research and study, in the United States or elsewhere, of foot-and-mouth disease and other animal and poultry diseases which in his opinion constitute a threat to the livestock or poultry industry of the United States.

No live virus of foot-and-mouth disease may be introduced for any purpose into any part of the mainland of the United States except coastal islands separated therefrom by waters navigable for deep-water navigation and which are not connected with the mainland by any tunnel, and except further, that in the event of outbreak of foot-and-mouth disease in this country, the Secretary of Agriculture may, at his discretion, permit said virus to be brought into the United States under adequate safeguards.

To carry out the provisions of this section, the Secretary may employ technical experts or scientists without regard to the Classification Act of 1949, but the number so employed shall not exceed five and the maximum compensation for each shall not exceed \$15,000 per annum. There is authorized to be appropriated such sums as Congress may deem necessary and, in addition, the Secretary may utilize, in carrying out this section, funds otherwise available for the control or eradication of such diseases.

§ 554. Appointment of agents to make recommendations

The Secretary of Agriculture may appoint two competent agents, who are practical stock raisers or experienced business men familiar with questions pertaining to commercial transactions in livestock or poultry, who shall, under the instructions of the Secretary, examine and report upon the best methods of treating, transporting, and caring for animals and poultry, and the means to be adopted for the control and eradication of contagious pleuropneumonia, and provide against the spread of other dangerous communicable diseases. The compensation of such agents shall be at the rate of \$10 per diem, with all necessary expenses, while engaged in the actual performance of their duties under this section, when absent from their usual place of business or residence.

§ 555. Cooperation with Mexico; foot-and-mouth disease and rinderpest; reports to Congress

(a) The Secretary of Agriculture may cooperate with the Government of Mexico in carrying out operations or measures to eradicate, suppress, or control, or to prevent or retard, foot-and-mouth disease or rinderpest in Mexico where he deems such action necessary to protect the livestock and related industries of the United States. In performing such operations or measures, the Government of Mexico shall be responsible for the authority necessary to carry them out on all lands and properties in Mexico and for such other facilities and means as are necessary in the discretion of the Secretary

of Agriculture. The measure and character of cooperation carried out under this section on the part of the United States and on the part of the Government of Mexico, including the expenditure or use of funds appropriated pursuant to this section, shall be such as may be prescribed by the Secretary of Agriculture. Arrangements for such cooperation shall be made through and in consultation with the Secretary of State. The authority contained in this section is in addition to and not in substitution for the authority of existing law.

(b) For purposes of this section, funds appropriated pursuant thereto may also be used for (1) the purchase or hire of passenger motor vehicles and aircraft, (2) printing and binding without regard to section 111 of Title 44, (3) the employment of civilian nationals of Mexico, and (4) the construction and operation of research laboratories, quarantine stations and other buildings and facilities.

(c) The Secretary of Agriculture shall make a report to the Congress on the last day of each month with respect to the activities carried on under this section.

§ 556. Cattle grubs, research and eradication

In order to protect, promote, and conserve livestock and livestock products and to minimize losses, the Secretary of Agriculture, either independently or in cooperation with States or subdivisions thereof, farmers' associations, and other organizations and individuals, may increase and intensify research and investigations into problems and methods relating to the eradication of cattle grubs and undertake measures to eradicate these parasites. As used in this section, the term "State" includes the District of Columbia and the Territories and possessions of the United States. Funds appropriated to carry out this section shall be expended in accordance with procedures prescribed by the Secretary.

§ 557. International boundary fences

The Secretary of Agriculture may permit the erection of fences along international boundary lines, but entirely within the territory of the United States, for the purpose of keeping out diseased animals and poultry.

§ 558. Regulation of transportation and exportation generally

In order to enable the Secretary of Agriculture effectually to control and eradicate dangerous communicable diseases in cattle and other livestock and poultry, and to prevent the spread of such diseases he shall establish such rules and regulations concerning the exportation and transportation of livestock and poultry from any place within

the United States where he may have reason to believe such diseases may exist into and through any State or Territory, and into and through the District of Columbia and to foreign countries as he deems necessary. All such rules and regulations shall have the force of law.

§ 559. Quarantine of infected areas

The Secretary of Agriculture shall quarantine any State or Territory or the District of Columbia, or any portion of any State or Territory or the District of Columbia, when he determines the fact that cattle or other livestock or poultry in such State or Territory or District of Columbia are affected with any communicable disease. He shall give written or printed notice of the establishment of quarantine to the proper officers of railroad, steamboat, or other transportation companies doing business in or through any quarantined State or Territory or the District of Columbia, and publish such notice in such newspapers in the quarantined State or Territory or the District of Columbia as he may select.

§ 560. Regulations for transportation from quarantined areas

The Secretary of Agriculture shall, when the public safety will permit, make and promulgate rules and regulations which shall permit and govern the inspection, disinfection, certification, treatment, handling, and method and manner of delivery and shipment of cattle or other livestock or poultry from a quarantined State or Territory or the District of Columbia, and from the quarantined portion of any State or Territory or the District of Columbia, into any other State or Territory or the District of Columbia. The Secretary shall give notice of such rules and regulations in the manner provided in section 559 of this title for notice of establishment of quarantine.

§ 561. Transportation from quarantined areas prohibited; exceptions

(a) No railroad company and no owners or masters of any vessel or boat shall receive for transportation or transport, no person shall deliver for transportation to any railroad company or to the master or owner of any vessel or boat, and no person shall drive or cause to be driven on foot or transport or cause to be transported by private conveyance, any cattle or other livestock or poultry from any quarantined State or Territory or the District of Columbia, or from any quarantined portion thereof, into any other State or Territory or the District of Columbia, except in compliance with rules and regulations promulgated by the Secretary of Agriculture under section 560 of this title.

(b) The provisions of subsection (a) of this section and sections 559 560, and 573 (b) of this title shall apply to any railroad company or other common carrier whose road or line forms any part of a route over which cattle or other livestock or poultry are transported in the course of shipment from any quarantined State or Territory or the District of Columbia, or from the quarantined portion of any State or Territory or the District of Columbia, into any other State or Territory or the District of Columbia.

§ 562. Transportation of diseased livestock or poultry prohibited

No railroad company within the United States, and no owners or masters of any vessel or boat, shall receive for transportation or transport from one State or Territory to another, or from any State into the District of Columbia, or from the District into any State, any livestock or poultry affected with any communicable disease; nor shall any person deliver for such transportation to any railroad company, or master or owner of any boat or vessel, any livestock or poultry, knowing them to be affected with any communicable disease. No person shall drive on foot, or transport in private conveyance, from one State or Territory to another, or from any State into the District of Columbia, or from the District into any State, any livestock or poultry, knowing them to be affected with any communicable disease.

§ 563. Cattle reacting to tuberculin test, transportation of

Cattle which have reacted to the tuberculin test may be shipped, transported, or moved from one State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia, for immediate slaughter, in accordance with such rules and regulations as shall be prescribed by the Secretary of Agriculture. The Secretary may, in his discretion, and under such rules and regulations as he may prescribe, permit cattle which have been shipped for breeding or feeding purposes from one State, Territory, or the District of Columbia to another State, Territory, or the District of Columbia, and which have reacted to the tuberculin test subsequent to such shipment, to be reshipped in interstate commerce to the original owner.

§ 564. Domestic animals reacting to test for paratuberculosis or brucellosis

Domestic animals which have reacted to a test recognized by the Secretary of Agriculture for paratuberculosis or which, never having been vaccinated for brucellosis, have reacted to a test recognized by the Secretary of Agriculture for brucellosis, may be shipped, transported,

or otherwise moved from one State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia for immediate slaughter in accordance with such rules and regulations as the Secretary of Agriculture may prescribe to prevent the dissemination of said diseases from one State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia. The Secretary of Agriculture may, in his discretion and under such rules and regulations as he may prescribe, permit domestic animals which have been moved from one State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia, for breeding purposes, and which, subsequent to such movement, have reacted to a test for brucellosis or paratuberculosis recognized by the Secretary of Agriculture, to be reshipped in interstate commerce to the original owner at the point of origin.

§ 565. Regulation and promotion of exports

(a) The Secretary of Agriculture may take such steps and adopt such measures, not inconsistent with the provisions of this chapter, as he deems necessary to prevent the exportation from any port of the United States to any port in a foreign country of livestock or poultry affected with any communicable disease.

(b) In order to promote the exportation of livestock and poultry from the United States the Secretary of Agriculture shall make special investigation as to the existence of any communicable disease, along the borders between the United States and foreign countries, and along the lines of transportation from all parts of the United States to ports from which livestock or poultry are exported, and shall, from time to time, establish such regulations concerning the exportation and transportation of livestock or poultry as the results of such investigations may require.

(c) The Secretary of Agriculture, by such orders and regulations as he prescribes, may cause inspection to be made of all cattle, sheep, other ruminants, swine, and poultry intended for exportation, and provide for the disinfection of all vessels engaged in the transportation thereof, and of all barges or other vessels used in the conveyance of such animals and poultry to the ocean steamer or other vessels, and of all attendants and their clothing, and of all headropes and other appliances used in such exportation. If, upon such inspection, any such animals or poultry are adjudged, under the Secretary's regulations, to be infected or to have been exposed to infection so as to be dangerous to other animals or poultry, they shall not be allowed to be placed upon any vessel for exportation. The expense of all the

inspection and disinfection provided for in this subsection shall be borne by the owners of the vessels on which such animals or poultry are exported.

(d) The Secretary shall cause to be made a careful inspection of all cattle, sheep, swine, and goats intended and offered for export to foreign countries at such times and places, and in such manner, as he deems proper to ascertain whether such animals are free from disease.

(e) No clearance shall be given to any vessel having on board cattle, sheep, swine, or goats for export to a foreign country until the owner or shipper of such animals has a certificate from an inspector stating that the animals are sound and healthy, or unless the Secretary has waived the requirement of such certificate for export to the particular country to which they are to be exported.

§ 566. Suspension of importation

Whenever, in the opinion of the President, it is necessary for the protection of animals, including poultry, in the United States against communicable diseases, he may, by proclamation, suspend the importation of all or any class of animals or poultry for a limited time, and may change, modify, revoke, or renew such proclamation, as the public good may require. During the time of such suspension the importation of any such animals or poultry shall be unlawful.

§ 567. Importation of diseased or exposed animals and poultry prohibited

No person shall import cattle, sheep, other ruminants, swine, and poultry, which are diseased or infected with any disease, or which have been exposed to such infection within sixty days next before their exportation. However, the Secretary of Agriculture may by regulations permit the admission from Mexico into the State of Texas of cattle which have been infested with or exposed to ticks upon being freed therefrom.

§ 568. Importation prohibited except at quarantine stations

No person shall import cattle, sheep, other ruminants, swine, and poultry except at ports designated as quarantine stations by the Secretary of Agriculture with the approval of the Secretary of the Treasury.

If any animals and poultry subject to quarantine are brought into any port of the United States where no quarantine station is established, the collector of such port shall require such animals and poultry to be conveyed to the nearest quarantine station by the vessel on which they are imported or are found, at the expense of the owner.

§ 569. Quarantine of imported animals and poultry

The Secretary of Agriculture may, at the expense of the owner, place and retain in quarantine all cattle, sheep, other ruminants, swine, and poultry imported into the United States, at ports designated by him for such purpose, and under such conditions as he by regulation prescribes, respectively, for the several classes of animals and poultry above described.

For the purpose of such quarantine, the Secretary may purchase, construct, or rent such lands, buildings, animals, tools, fixtures, and appurtenances as may be necessary, and he may appoint such veterinary surgeons, inspectors, officers, and employees as he deems necessary to maintain such quarantine and provide for the execution of the other provisions of sections 565 (c), 566–570, and 573 (e) of this title.

§ 570. Inspection and disposition of imported animals and poultry

(a) The Secretary of Agriculture shall cause careful inspection to be made of all imported cattle, sheep, other ruminants, swine, and poultry, to ascertain whether such animals and poultry are infected with communicable diseases or have been exposed to infection so as to be dangerous to other animals and poultry. Such animals and poultry shall then be either placed in quarantine or dealt with according to the Secretary's regulations.

All food, litter, manure, clothing, utensils, and other appliances that have been so related to such animals and poultry on board ship as to be judged liable to convey infection shall be dealt with according to the Secretary's regulations.

(b) The Secretary of Agriculture may cause to be slaughtered such of the animals and poultry named in subsection (a) of this section as may be, under his regulations, adjudged to be infected with any communicable disease, or to have been exposed to infection so as to be dangerous to other animals and poultry. The value of animals and poultry slaughtered as being exposed to infection but not infected may be ascertained by agreement of the Secretary and the owners thereof if practicable; otherwise, by the appraisal by two persons familiar with the character and value of such property, appointed by the Secretary, whose decision, if they agree, shall be final; otherwise, the Secretary of Agriculture shall decide between them, and his decision shall be final. The amount of the value thus ascertained shall be paid to the owner thereof out of money in the Treasury appropriated for the use of the Bureau of Animal Industry

or for the use of such other bureau or agency, or of any officer, of the Department of Agriculture, to which or to whom the Secretary may delegate the functions heretofore or hereafter exercised by him through the Bureau of Animal Industry; but no payment shall be made for any animals or poultry imported in violation of the provisions of sections 566-570 or 573 (e) of this title.

§ 571. Disease control in District of Columbia

Whenever any communicable disease affecting domestic animals or poultry, is brought into or breaks out in the District of Columbia, the Commissioners of the District of Columbia shall take measures to suppress the disease promptly and to prevent it from spreading. For this purpose the Commissioners may (1) require that any premises or farms where such disease exists, or has existed, be put in quarantine; (2) order that all or any animals and poultry coming into the District be detained at any place for the purpose of inspection and examination; (3) prescribe regulations for and require the destruction of animals or poultry affected with communicable disease, and for the proper disposition of their hides and carcasses; and (4) prescribe regulations for disinfection, and such other regulations as they may deem necessary to prevent infection or contagion being communicated. The Commissioners shall report to the Secretary of Agriculture any actions taken under this section.

§ 572. Inspection by Department as precluding other inspections and fees

Whenever the Secretary of Agriculture, or any inspector or assistant inspector of the Department of Agriculture designated by the Secretary for such purpose, issues a certificate showing that such officer has inspected any cattle or other livestock or poultry which are about to be shipped, driven, or transported from one locality to another as stated in section 558 of this title, and has found them free from any communicable disease, such animals or poultry, so inspected and certified, may be shipped, driven, or transported from such place into and through any State or Territory or the District of Columbia, or they may be exported from the United States, without further inspection or the exaction of fees of any kind, except such as may at any time be ordered or exacted by the Secretary of Agriculture. For the purposes of such inspection, all such animals and poultry shall at all times be under the control and supervision of the Secretary of Agriculture.

§ 573. Penalties

(a) Whoever knowingly violates section 551, 558 or 572 of this title or the orders or regulations made in pursuance thereof shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(b) Whoever violates section 561 of this title shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(c) The Secretary of Agriculture shall give notice of the existence of contagion in any infected locality by notice, in writing, to the proper officials or agents of any railroad, steamboat, or other transportation company doing business in or through such locality, and by publication in such newspapers as he may select. Whoever, being a person operating any such railroad, or master or owner of any boat or vessel, or owner or custodian of or person having control over such cattle or other livestock or poultry within such infected district, knowingly violates section 562 of this title shall be fined not more than \$5,000 or imprisoned not more than one year, or both.

(d) Whoever violates section 565 (d) (e) of this title shall be fined not more than \$10,000 or imprisoned not more than one year, or both.

(e) Whoever knowingly violates section 567 of this title shall be fined not more than \$5,000 or imprisoned not more than three years. Any vessel or vehicle used in such unlawful importation within the knowledge of the master or owner of such vessel or vehicle that such importation is diseased or has been exposed to infection as described in section 567 of this title, shall be forfeited to the United States.

§ 574. Prosecution of violations; venue

The several United States attorneys shall prosecute all violations of this chapter which are brought to their notice by any person making complaint under oath, in the United States district court or Territorial court held within the district in which the violation has been committed.

CHAPTER 57—SERUMS AND ANALOGOUS PRODUCTS

Sec.

611. Preparation and sale of serum, etc.

612. Licensing and inspection of establishments.

613. Regulations for preparation and sale.

614. Importation regulated and prohibited.

615. Permits for and inspection of imports.

616. Revocation or suspension of licenses or permits.

617. Penalties.

§ 611. Preparation and sale of serum, etc.

No person shall prepare, sell, barter, or exchange in the District of Columbia, in the Territories, or in any place under the jurisdiction

of the United States, or ship or deliver for shipment from one State or Territory or the District of Columbia to any other State or Territory or the District of Columbia—

(1) any worthless, contaminated, dangerous, or harmful virus, serum, toxin, or analogous product intended for use in the treatment of domestic animals; or

(2) any virus, serum, toxin, or analogous product manufactured within the United States and intended for use in the treatment of domestic animals, unless and until such product has been prepared, under and in compliance with regulations prescribed by the Secretary of Agriculture, at an establishment holding an unsuspended and unrevo-
ked license issued by the Secretary under this chapter.

§ 612. Licensing and inspection of establishments

(a) The Secretary of Agriculture may issue, suspend, and revoke licenses for the maintenance of establishments for the preparation of viruses, serums, toxins, and analogous products, for use in the treatment of domestic animals, intended for sale, barter, exchange, or shipment as specified in section 611 of this title.

(b) All licenses issued to establishments under this chapter shall be issued on condition that the licensee shall permit the inspection of such establishments and of such products and their preparation. Any officer, agent, or employee of the Department of Agriculture duly authorized by the Secretary for the purpose may enter and inspect any establishment licensed under this chapter at any hour of the day or night.

§ 613. Regulations for preparation and sale

The Secretary of Agriculture may make and promulgate from time to time such rules and regulations as may be necessary to prevent the preparation, sale, barter, exchange, or shipment as specified in section 611 of this title of any worthless, contaminated, dangerous, or harmful virus, serum, toxin, or analogous product for use in the treatment of domestic animals.

§ 614. Importation regulated and prohibited

No person shall import into the United States, without a permit from the Secretary of Agriculture, any virus, serum, toxin, or analogous product for use in the treatment of domestic animals, and no person shall import into the United States any worthless, contaminated, dangerous, or harmful virus, serum, toxin, or analogous product for use in the treatment of domestic animals.

§ 615. Permits for and inspection of imports

(a) The Secretary of Agriculture may issue permits for the importation into the United States of viruses, serums, toxins, and analogous products, for use in the treatment of domestic animals, which are not worthless, contaminated, dangerous, or harmful.

(b) The Secretary may cause to be examined and inspected all viruses, serums, toxins, and analogous products, for use in the treatment of domestic animals, which are being imported or offered for importation into the United States, to determine whether such products are worthless, contaminated, dangerous, or harmful. If it appears that any such product is worthless, contaminated, dangerous, or harmful, such product shall be denied entry and shall be destroyed or returned at the expense of the owner or importer.

§ 616. Revocation or suspension of licenses or permits

The Secretary of Agriculture may suspend or revoke any license or permit issued under this chapter, after opportunity for hearing has been granted the licensee or importer, when the Secretary is satisfied that such license or permit is being used to facilitate or effect the preparation, sale, barter, exchange, or shipment as specified in section 611 of this title, or the importation into the United States, of any worthless, contaminated, dangerous, or harmful virus, serum, toxin, or analogous product for use in the treatment of domestic animals.

§ 617. Penalties

Whoever violates any of the provisions of this chapter shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

PART III.—NARCOTICS

CHAPTER	Sec.
91. Administration -----	711
93. NARCOTICS IMPORT AND EXPORT -----	761
95. DOMESTIC OPIUM POPPY PRODUCTION CONTROL -----	811

CHAPTER 91—ADMINISTRATION

Sec.
711. Administration of Part III; delegation of functions.
712. Departmental cooperation in discharge of international obligations.
713. Cooperation with States in suppression of abuse.
714. Payments for information.

§ 711. Administration of Part III; delegation of functions

Except as otherwise provided by law, the administration and enforcement of this part are vested in the Secretary of the Treasury. Such Secretary's functions under this part shall be performed by him

or, subject to his direction and control, by such officers, agencies and bureaus of the Department of the Treasury as he designates.

§ 712. Departmental cooperation in discharge of international obligations

The Secretary of the Treasury shall cooperate with the Secretary of State in the discharge of the international obligations of the United States concerning the traffic in narcotic drugs.

§ 713. Cooperation with States in suppression of abuse

(a) The Secretary of the Treasury shall cooperate with the several States in the suppression of the abuse of narcotic drugs in their respective jurisdictions, and to that end he may :

(1) Cooperate in the drafting of such legislation as may be needed to effect the end named ; and

(2) Arrange for the exchange of information concerning the use and abuse of narcotic drugs in said States and for cooperation in the institution and prosecution of cases in the courts of the United States and before the licensing boards and courts of the several States.

(b) The Secretary of the Treasury may prescribe such regulations as may be necessary to carry out the purposes of this section.

§ 714. Payments for information concerning violations of laws

The Secretary of the Treasury may pay to any person, from funds now or hereafter appropriated for the enforcement of the narcotic laws of the United States, for information concerning a violation of any narcotic law of the United States, resulting in a seizure of contraband narcotics, such sum or sums of money as he may deem appropriate, without reference to any moieties or rewards to which such person may otherwise be entitled by law. All payments under authority of this section to any informer in any foreign country shall be made only through an accredited consul or vice consul of the United States stationed in such country, and every such payment shall be supported by a voucher with an accompanying certificate of such consul or vice consul that the payment of the amount stated on the voucher has been made to the informer named, and at the place and time specified on such voucher.

CHAPTER 93—NARCOTICS IMPORT AND EXPORT

Sec.

761. Definitions.

762. Rules and regulations.

763. Importation ; exceptions and restrictions ; forfeitures.

764. Import for purpose of transportation to another country ; transfer between vessels.

765. Penalty for unlawful import, receipt, transportation or sale ; subsequent offenses ; procedure ; evidence ; liability of masters and persons in charge.

766. Presumption and burden of proof as to importation of smoking opium.

Sec.

767. Exportation; exception; laws of foreign governments.

768. Penalty for unlawful export.

769. Penalty for having in possession or control on board United States vessel.

770. Penalty for possession, receipt, or concealment of smoking opium; evidence; liability of masters and persons in charge.

771. Share of fine to informer.

772. Short title.

§ 761. Definitions

As used in this chapter, unless the context requires a different meaning—

(a) “narcotic drug”, “isonipecaïne” and “opiate” shall have the same meaning ascribed to these terms as used in the Internal Revenue Code;

(b) “United States”, when used in a geographical sense, includes the several States and Territories, and the District of Columbia;

(c) “Secretary” means the Secretary of the Treasury;

(d) “person” means an individual, partnership, corporation, or association.

§ 762. Rules and regulations

The Secretary shall prescribe and publish all proper rules and regulations to carry into effect the authority vested in him by this chapter.

§ 763. Importation; exceptions and restrictions; forfeitures

(a) No narcotic drug may be imported or brought into the United States or any territory under its control or jurisdiction, except that, under such regulations as the Secretary shall prescribe—

(1) Such amounts of crude opium and coca leaves as the Secretary finds to be necessary to provide for medical and scientific uses may be so imported or brought in; but no crude opium may be imported or brought in for the purpose of manufacturing heroin, and the Secretary may limit further or prohibit entirely the importation or bringing in of crude opium, to the extent that he finds that the medical and scientific needs of the United States for opium or opium products are being, or can be, supplied by opium poppies produced in accordance with chapter 95 of this title; and

(2) Amounts of coca leaves in addition to the amount permitted under paragraph (1) of this subsection may be imported or brought in; but after the entry of such additional amounts into the United States or any territory under its control or jurisdiction, all cocaine, ecgonine, and all salts, derivatives, and preparations from which cocaine or ecgonine may be synthesized or made, contained therein,

shall be destroyed under the supervision of the Secretary or his authorized representative.

(b) All narcotic drugs imported under subsection (a) of this section shall be subject to the duties which are now or may hereafter be imposed upon such drugs when imported.

(c) Any narcotic drug imported or brought into the United States or any territory under its control or jurisdiction, contrary to law, shall—

(1) If smoking opium or opium prepared for smoking, be seized and summarily forfeited to the United States Government without the necessity of instituting forfeiture proceedings of any character; or

(2) If any other narcotic drug be seized and forfeited to the United States Government, without regard to its value, in the manner provided by sections 1607 and 1608 of Title 19, or the provisions of law hereafter enacted which are amendatory of, or in substitution for, such sections.

(d) Any narcotic drug which is forfeited in a proceeding for condemnation or not claimed under sections 1607 and 1608 of Title 19, or which is summarily forfeited as provided in subsection (c) of this section, shall be placed in the custody of the Secretary and in his discretion be destroyed or delivered to some agency of the United States Government for use for medical or scientific purposes.

§ 764. Import for purpose of transportation to another country; transfer between vessels

No smoking opium or opium prepared for smoking shall be admitted into the United States or into any territory under its control or jurisdiction for transportation to another country, or be transferred or transshipped from one vessel to another vessel within any waters of the United States for immediate exportation or for any other purpose; and except with the approval of the Secretary, no other narcotic drug may be so admitted, transferred, or transshipped.

§ 765. Penalty for unlawful import, receipt, transportation or sale; subsequent offenses; procedure; evidence; liability of masters and persons in charge

(a) Whoever fraudulently or knowingly imports or brings any narcotic drug into the United States or any territory under its control or jurisdiction, contrary to law, or receives, conceals, buys, sells, or in any manner facilitates the transportation, concealment, or sale of any such narcotic drug after being imported or brought in, knowing the same to have been imported contrary to law, or conspires to commit any of such acts in violation of the laws of the United States, shall be

fined not more than \$2,000 and imprisoned not less than two or more than five years. For a second offense, the offender shall be fined not more than \$2,000 and imprisoned not less than five or more than ten years. For a third or subsequent offense, the offender shall be fined not more than \$2,000 and imprisoned not less than ten or more than twenty years. Upon conviction for a second or subsequent offense, the imposition or execution of sentence shall not be suspended and probation shall not be granted. For the purpose of this subsection, an offender shall be considered a second or subsequent offender, as the case may be, if he previously has been convicted of any offense the penalty for which is provided in this subsection or in section 2557 (b) (1) of the Internal Revenue Code, or if he previously has been convicted of any offense the penalty for which was provided in section 9, chapter 1, of the Act of December 17, 1914 (38 Stat. 789), as amended; section 1, chapter 202 of the Act of May 26, 1922 (42 Stat. 596), as amended; section 12, chapter 553, of the Act of August 2, 1937 (50 Stat. 556), as amended; or section 2557 (b) (1) or 2596 of the Internal Revenue Code, as amended. After conviction, but prior to pronouncement of sentence, the court shall be advised by the United States attorney whether the conviction is the offender's first or a subsequent offense. If it is not a first offense, the United States attorney shall file an information setting forth the prior convictions. The offender shall have the opportunity in open court to affirm or deny that he is identical with the person previously convicted. If he denies the identity, sentence shall be postponed for such time as to permit a trial before a jury on the sole issue of the offender's identity with the person previously convicted. If the offender is found by the jury to be the person previously convicted, or if he acknowledges that he is such person, he shall be sentenced as prescribed in this subsection.

Whenever on trial for a violation of this subsection the defendant is shown to have or to have had possession of the narcotic drug, such possession shall be deemed sufficient evidence to authorize conviction unless the defendant explains the possession to the satisfaction of the jury.

(b) No master of any vessel or other water craft, or person in charge of a railroad car or other vehicle, shall be liable under subsection (a) of this section if he satisfies the jury that he had no knowledge of and used due diligence to prevent the presence of the narcotic drug in or on such vessel, water craft, railroad car, or other vehicle; but the narcotic drug shall be seized, forfeited, and disposed of as provided in subsections (c) and (d) of section 763 of this title.

§ 766. Presumption and burden of proof as to importation of smoking opium

All smoking opium or opium prepared for smoking found within the United States shall be presumed to have been imported contrary to law, and the burden of proof shall be on the claimant or the accused to rebut such presumption.

§ 767. Exportation; exceptions; laws of foreign governments

(a) No person subject to the jurisdiction of the United States Government shall export or cause to be exported from the United States, or from territory under its control or jurisdiction, any narcotic drug to any other country except to a country which has ratified and become a party to the convention and final protocol between the United States Government and other powers for the suppression of the abuses of opium and other drugs, commonly known as the International Opium Convention of 1912, and then only if—

(1) such country has instituted and maintains, in conformity with that convention, a system, which the Secretary deems adequate, of permits or licenses for the control of imports of such narcotic drugs;

(2) the narcotic drug is consigned to an authorized permittee; and

(3) there is furnished to the Secretary proof deemed adequate by him that the narcotic drug is to be applied exclusively to medical and scientific uses within the country to which exported, that it will not be reexported from such country, and that there is an actual shortage of and a demand for the narcotic drug for medical and scientific uses within such country.

(b) The exceptions contained in subsection (a) of this section shall not apply to smoking opium or opium prepared for smoking, the exportation of which is absolutely prohibited.

(c) The Secretary of State shall request all foreign governments to communicate through the diplomatic channels copies of the laws and regulations promulgated in their respective countries which prohibit or regulate the importation and shipment in transit of any narcotic drug and, when received, shall advise the Secretary thereof.

§ 768. Penalty for unlawful export

Any person who exports, or conspires to export, any narcotic drugs in violation of section 767 of this title shall be fined not more than \$5,000 or imprisoned not more than two years, or both.

§ 769. Penalty for having in possession or control on board United States vessel

(a) Any person who brings on board, or has in his possession or control on board, any vessel of the United States, while engaged on a foreign voyage, any narcotic drug not constituting a part of the cargo entered in the manifest or part of the ship stores, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

(b) As used in subsection (a) of this section, "narcotic drug" means any narcotic drug defined by section 761 of this title, or "marihuana" as defined in the Internal Revenue Code.

§ 770. Penalty for possession, receipt, or concealment of smoking opium; evidence; liability of masters and persons in charge

(a) Any person, subject to the jurisdiction of the United States, who, either as principal or as accessory, receives or has in his possession, or conceals on board of or transports on any foreign or domestic vessel or other water craft or railroad car or other vehicle destined to or bound from the United States or any Possession thereof, any smoking opium or opium prepared for smoking, or who, having knowledge of the presence in or on any such vessel, water craft, or vehicle of such article, does not report the same to the principal officer thereof, shall be punished as provided in section 765 of this title. Whenever on trial for violation of this section the defendant is shown to have or to have had possession of such opium, such possession shall be deemed sufficient evidence to authorize conviction, unless the defendant shall explain the possession to the satisfaction of the jury.

(b) No master of a vessel or other water craft or person in charge of a railroad car or other vehicle shall be liable under this section if he satisfies the jury that he had no knowledge and used due diligence to prevent the presence of such article in or on such vessel, water craft, car, or other vehicle; but any such article shall be forfeited and destroyed.

§ 771. Share of fine to informer

One-half of any fine recovered from any person or persons convicted of an offense under this chapter may be paid to the person or persons giving information leading to such recovery, and one-half of any bail forfeited and collected in any proceedings brought under this chapter may be paid to the person or persons giving the information which

led to the institution of such proceedings, if so directed by the court exercising jurisdiction in the case. No payment for giving information shall be made to any officer or employee of the United States.

§ 772. Short title

This chapter may be cited as the “Narcotic Drugs Import and Export Act”.

CHAPTER 95—DOMESTIC OPIUM POPPY PRODUCTION CONTROL

Sec.

811. Declaration of policy; assistance from Federal agencies.

812. Definitions.

813. Rules and regulations.

814. Licenses; qualifications; limitations; revocation and renewal.

815. Distribution by Federal Government; personnel of Treasury Department excepted from prohibitions.

816. Production, purchase, manufacture, sale or transportation by unlicensed persons.

817. Seizure and forfeiture of opium poppies illegally possessed; disposition.

818. Penalties.

819. Pleading, presumptions, and burden of proof.

820. Application to, and of, other laws.

821. Territorial application.

822. Short title.

§ 811. Declaration of policy; assistance from Federal agencies

(a) It is the purpose of this chapter to—

(1) discharge more effectively the obligations of the United States under the International Opium Convention of 1912, and the Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs of 1931, as amended by the Protocol signed at Lake Success, New York, on December 11, 1946;

(2) promote the public health and the general welfare;

(3) regulate interstate and foreign commerce in opium poppies; and

(4) safeguard the revenue derived from taxation of opium and opium products.

(b) Other departments, bureaus, and independent establishments of the Government, when requested by the Secretary of the Treasury, shall furnish such assistance, including technical advice, as will aid in carrying out the purposes of this chapter.

§ 812. Definitions

As used in this chapter—

1. “produce” or “production” includes the planting, cultivation, growth, harvesting, and any other activity which facilitates the growth of the opium poppy;

2. “opium poppy” includes the plant *Papaver somniferum*, any other plant which is the source of opium or opium products, and any part of any such plant;

3. "opium" includes the inspissated juice of the opium poppy, in crude or refined form;

4. "opium products" includes opium and all substances obtainable from opium or the opium poppy, except the seed thereof;

5. "Secretary" means the Secretary of the Treasury;

6. "person" means an individual, company, partnership, corporation, or association.

§ 813. Rules and regulations

The Secretary may prescribe and publish all necessary rules and regulations for carrying out the provisions of this chapter.

§ 814. Licenses; qualifications; limitations; revocation and renewal

(a) Any person who desires to procure a license to produce the opium poppy, or to manufacture opium or opium products, shall make application therefor in such manner and form as the Secretary shall by rules and regulations prescribe.

(b) A license to produce the opium poppy shall be issued only to a person who, in the opinion of the Secretary, is determined to be a person—

(1) of good moral character;

(2) of suitable financial standing and farming experience;

(3) who owns or controls suitable farm land to be used as a production area, in such locality, as will, in the judgment of the Secretary, render reasonably probable the efficient and diligent performance of the operations of producing the opium poppy in appropriate number and quality; and

(4) who complies with such additional requirements as the Secretary shall deem and prescribe as reasonably necessary for the controlled production and distribution of the opium poppy.

Each such license shall be nontransferable and shall be valid only to the extent of the production area and maximum weight of opium poppy yield specified in the license, shall state the locality of the production area, and shall be effective for a period of one year from the date of issue and may be renewed, in the discretion of the Secretary, for a like period.

(c) A license to manufacture opium or opium products shall be issued only to a person who, in the opinion of the Secretary, is determined to be a person—

(1) of good moral character;

(2) who possesses a method and facilities, deemed satisfactory

to the Secretary, for the efficient and economical extraction of opium or opium products;

(3) who has such experience in manufacturing and marketing other medicinal drugs as to render reasonably probable the orderly and lawful distribution of opium or opium products of suitable quality to supply medical and scientific needs; and

(4) who complies with such additional requirements as the Secretary shall deem and prescribe as reasonably necessary for the controlled production, manufacture, and distribution of the opium poppy, opium, or opium products.

Such license shall be nontransferable, shall state the maximum quantity of opium poppies purchasable or obtainable thereunder, and shall be effective for a period of one year from the date of issue and may be renewed, in the discretion of the Secretary, for a like period.

(d) All licenses issued under this section shall be limited to such number, localities, and areas as the Secretary shall determine to be appropriate to supply the medical and scientific needs of the United States for opium or opium products, with due regard to provision for reasonable reserves. Nothing contained in this section shall be construed as requiring the Secretary to issue or renew any license or licenses under the provisions hereof.

(e) The Secretary may revoke or refuse to renew any license issued under this section, if, after due notice and opportunity for hearing, he finds such action to be in the public interest, or finds that the licensee has failed to maintain the requisite qualifications.

§ 815. Distribution by Federal Government; personnel of Treasury Department excepted from prohibitions

(a) The Secretary, whenever in his opinion the medical and scientific needs of the Nation will not be met by importation or licensed production, shall provide for the acquisition of opium poppy seed, for the production of the opium poppy, for the manufacture of opium or opium products, and for the use, sale, giving away, or other proper distribution of opium poppy seed, opium poppies, opium, or opium products by the United States Government either directly or through and with the approval of the head of any agency of the Government, including any Government-owned or controlled corporation.

(b) None of the prohibitions contained in this chapter shall apply to any officer or employee of the United States Treasury Department, who in the performance of his official duties and within the scope of his authority engages in any of the businesses or activities herein described, nor to any other officer or employee of the United States

Government, who in the performance of his official duties, within the scope of his authority and with the approval of the Secretary, engages in any of the businesses or activities herein described.

§ 816. Production, purchase, manufacture, sale or transportation by unlicensed persons

(a) No person who is not the holder of a proper license authorizing him to produce the opium poppy, duly issued to him by the Secretary, shall produce or attempt to produce the opium poppy, or permit the production of the opium poppy in or upon any place owned, occupied, used, or controlled by him.

(b) Except as otherwise provided in subsection (e) of this section, no person shall—

(1) purchase or in any other manner obtain the opium poppy, unless he is the holder of a proper license to produce the opium poppy or to manufacture opium or opium products, duly issued to him by the Secretary; or

(2) sell, transfer, convey any interest in, or give away the opium poppy to any person not so licensed.

(c) No person who is not the holder of a proper license authorizing him to manufacture opium or opium products, duly issued to him by the Secretary, shall manufacture, compound, or extract opium or opium products from the opium poppy.

(d) No person who is not the holder of a proper license authorizing him to produce the opium poppy or to manufacture opium or opium products, duly issued to him by the Secretary, shall send, ship, carry, transport, or deliver any opium poppies within any State, Territory, the District of Columbia, the Canal Zone, or insular possession of the United States, or from any State, Territory, the District of Columbia, the Canal Zone, or insular possession of the United States, into any other State, Territory, the District of Columbia, the Canal Zone, or insular possession of the United States. Nothing contained in this subsection shall apply to any common carrier engaged in transporting opium poppies pursuant to an agreement with a person duly licensed under section 814 of this title as a producer of the opium poppy, or as a manufacturer of opium or opium products, or to any employee of any person so licensed while acting within the scope of his employment.

(e) No person shall sell, transfer, convey any interest in, or give away, except to a person duly licensed under section 814 of this title, opium poppy seed for the purpose of opium poppy production, nor

shall any unlicensed person purchase or otherwise obtain such seed for such purpose; but the seed obtained from opium poppies produced by licensed producers may be sold or transferred by such producers to unlicensed persons, and may thereafter be resold or transferred, for ultimate consumption as a spice seed or for the manufacture of oil.

§ 817. Seizure and forfeiture of opium poppies illegally possessed; disposition

(a) Any opium poppies produced or otherwise obtained in violation of any of the provisions of this chapter shall be seized by, and forfeited to, the United States.

(b) The failure, upon demand by the Secretary, or his duly authorized agent, of the person in occupancy or control of land or premises upon which opium poppies are being produced or stored to produce an appropriate license, or proof that he is the holder thereof, shall constitute authority for the seizure and forfeiture of such opium poppies.

(c) The Secretary, or his duly authorized agent, shall have authority to enter upon any land (but not a dwelling house, unless pursuant to a search warrant issued according to law) where opium poppies are being produced or stored, for the purposes of enforcing the provisions of this chapter.

(d) Any opium poppies, the owner or owners of which are unknown, seized by or coming into the possession of the United States in the enforcement of this chapter shall be forfeited to the United States.

(e) The Secretary shall destroy any opium poppies seized by, and forfeited to, the United States under this section, or deliver them for medical or scientific purposes to any department, bureau, or other agency of the United States Government, upon proper application therefor under such regulations as he may prescribe.

§ 818. Penalties

(a) Any person who violates any provision of this chapter shall be fined not more than \$2,000 or imprisoned not more than five years, or both.

(b) Any person who willfully makes, aids, or assists in the making of, or procures, counsels, or advises in the preparation or presentation of, a false or fraudulent statement in any application for a license under the provisions of section 814 of this title shall (whether or not such false or fraudulent statement is made by or with the knowledge or consent of the person authorized to present the application) be fined not more than \$2,000 or imprisoned not more than one year, or both.

§ 819. Pleading, presumptions, and burden of proof

It shall not be necessary to negative any exemptions set forth in this

chapter in any complaint, information, indictment, or other writ or proceeding laid or brought under this chapter and the burden of proof of any such exemption shall be upon the defendant. In the absence of the production of an appropriate license by the defendant, he shall be presumed not to have been duly licensed in accordance with section 814 of this title and the burden of proof shall be on the defendant to rebut such presumption.

§ 820. Application to, and of, other laws

Nothing in this chapter shall be construed to repeal any provisions of the Internal Revenue Code, but nothing in that Code shall apply to the production, sale, or transfer of opium poppies, when such opium poppies are lawfully produced, sold, or transferred by persons duly and properly licensed under section 814 of this title in conformity with the regulations issued pursuant to such section.

§ 821. Territorial application

The provisions of this chapter shall apply to the several States, the District of Columbia, the Territory of Alaska, the Territory of Hawaii, the Canal Zone, Puerto Rico, and the other insular possessions of the United States.

§ 822. Short title

This chapter may be cited as the "Opium Poppy Control Act".

SEC. 2. Section 1 of the Act approved May 29, 1884 (ch. 60, 23 Stat. 31; 7 U. S. C., sec. 391), as amended, is amended to read as follows:

"SEC. 1. There shall be in the Department of Agriculture a Bureau of Animal Industry. The Secretary of Agriculture is authorized to appoint a chief thereof, who shall be a competent veterinary surgeon. The functions of the Bureau of Animal Industry shall be vested in the Secretary of Agriculture or, subject to his direction and control, in such officers and agencies of the Department of Agriculture as he may designate. Such functions shall include the duty to investigate and report upon the condition of the domestic animals and poultry of the United States, their protection and use, and also to inquire into and report the causes of communicable diseases among them, and the means for the prevention and cure of the same, and to collect such information on these subjects as shall be valuable to the agricultural and commercial interests of the country."

SEC. 3. The first paragraph of section 1 of the Act approved March 28, 1928 (chapter 266, 45 Stat. 374; 31 U. S. C., sec. 529a), as amended, is amended (1) by striking out "Division of Disbursement", as now appearing in such paragraph, and, in lieu thereof, inserting "Fiscal Service"; and (2) by striking out, after the first semicolon, "the Act

entitled ‘An Act to amend an Act entitled “An Act to prohibit the importation and use of opium for other than medicinal purposes”, approved February 9, 1909’, as amended, known as the ‘Narcotic Drugs Import and Export Act’ ”, and inserting in lieu thereof “chapter 93 of Title 21, United States Code”.

SEC. 4. (a) Subsection (a) of section 302 of the Act approved July 1, 1944 (chapter 373, Title III, 58 Stat. 692; 42 U. S. C., sec. 242) is amended by striking out the reference “the Narcotic Drugs Import and Export Act, as amended”, appearing at the end of such subsection, and inserting in lieu thereof “chapter 93 of Title 21, United States Code”.

(b) Subsection (d) of section 7 of the Act approved August 9, 1939 (chapter 618, 53 Stat. 1293; 49 U. S. C., sec. 787 (d)), as amended, is amended by striking out the reference “the Narcotic Drugs Import and Export Act,” appearing in such subsection.

SEC. 5. The opening clause of subsection (f) of section 15 of the Federal Trade Commission Act (15 U. S. C., sec. 55 (f)) as amended, which subsection was added to such section 15 by section 4 (b) of the Act approved March 16, 1950 (chapter 61, 64 Stat. 21), is amended by striking out “and section 407 of the Federal Food, Drug, and Cosmetic Act, as amended”.

SEC. 6. If any part of Title 21, United States Code, as set out in section 1 of this Act, shall be held invalid, the remainder of such title shall not be affected thereby.

SEC. 7. No inference of a legislative construction is to be drawn by reason of the chapter in Title 21, United States Code, as set out in section 1 of this Act, in which any section is placed, nor by reason of the catchlines used in such title.

SEC. 8. All orders, rules, and regulations in effect on the effective date of this Act, which were adopted under the authority of the Acts of Congress from which Title 21, United States Code, as set out in section 1 of this Act, is derived, shall continue in effect until modified, amended, superseded, or repealed under the authority of such title.

SEC. 9. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of Title 21, United States Code, as set out in section 1 of this Act.

SEC. 10. The provisions of this Act shall take effect on January 1, 1955.

SEC. 11. The sections or parts thereof of the Statutes at Large enumerated in the following schedule are hereby repealed. Any rights or

liabilities now existing under such sections or parts thereof shall not be affected by this repeal.

Statutes at Large						U. S. Code	
Date	Chapter	Title	Section	Volume	Page	Title	Section
1884—May 29	60		2, 3, 4, 5, 6, 7, 8, 9	23	31-33	21	112, 113, 114, 117-120, 130
Do	60		10	23	33	{ 7	391 note
1887—Feb. 23	210		1, 2, 3	24	409	21	112 note
1890—Aug. 30	839		1, 2, 3	26	414, 415	21	191-193
Do	839		4, 6, 7, 8, 9, 10	26	415-417	21	1 note, 71 note
1897—Mar. 2	358		1, 2, 3, 4, 5, 6, 7, 8, 9, 10	29	604-607	21	18, 101-105 41-46, 47-50
1902—May 9	784		1	32	193	21	25
July 1	1357		1, 2	32	632	21	16, 17
1903—Feb. 2	349		1, 2, 3	32	791, 792	21	111, 112, 113, 120-122
1905—Mar. 3	1496		1, 2, 3, 4, 6	33	1264, 1265	21	123-127
1906—June 30	3913 (part)			34	¹ 679	21	95
1907—Mar. 4	2907 (part)			34	¹ 1260-1265	21	71-92
1908—May 16	170			35	163	21	41
May 23	192 (part)			35	² 254	21	94a
1909—Feb. 9	¹ 100		1, 2, 3, 4, 5, 6, 7, 8, 9	35	614	21	171-173, 174, 176-184, 185
1910—May 26	256 (part)			36	³ 440	21	131
1913—Mar. 4	145 (part)			37	⁶ 832, 833	21	151-158
1914—June 30	131 (part)			38	⁷ 419	21	128
Do	131 (part)			38	⁸ 420	21	94
1915—Mar. 3	74		1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13.	38	817-822	21	201-215
Mar. 4	144 (part)			38	⁹ 1102	21	24
1917—Aug. 10	52		9	40	275	21	106, 107
1918—Nov. 21	212		3	40	1048, 1049	21	106, 107
1919—July 24	26 (part)			41	¹⁰ 241	21	96
Do	26 (part)			41	¹¹ 271	21	321h
1920—May 31	217 (part)			41	¹² 699	21	116
Do	217 (part)			41	¹³ 712, 713	21	41-44, 46-50
1923—Mar. 4	262		1, 2, 3	42	1486, 1487	21	61-63
Do	262		¹⁴ 4			21	64
Do	268			42	1500	21	321a
1926—June 23	700		1, 2	44	774, 775	21	104, 115, 115 note
1927—Jan. 18	39 (part)			44	¹⁵ 984	21	26
Feb. 15	155		1, 2, 3, 4, 5, 6, 7, 8, 9	44	1101-1103	21	141-149
Mar. 4	489		1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12.	44	1406-1410	15	401-409, 409 note, 410, 411
1928—Feb. 7	30			45	59	{ 7	¹⁶ 391
May 16	572 (part)			45	¹⁷ 548	21	111-115, 117- 126, 128, 130
1929—Feb. 16	22 (part)			45	¹⁸ 1198	21	26
1930—June 14	488		6, 7, 8	46	587	21	173a, 197, 198
July 3	829			46	850	21	199
1931—Feb. 28	348			46	1460	21	104
1934—June 22	712			48	1204	21	372a
June 26	756		¹⁹ 2	48	1225	21	95
1935—Aug. 27	739			49	871	21	372a

¹ Only the second full paragraph on this page, of which the first sentence was classified to the United States Code, 1946 ed., as section 95 of title 21 thereof, and the remainder was not classified to such Code.

² Commencing with the paragraph headed "For meat inspection," on page 1260, and continuing on to the bottom of such page, inclusive; all that appears on pages 1261, 1262, 1263 and 1264, including the paragraph which commences on page 1264 and ends on page 1265; and the first full paragraph on page 1265.

³ Only the proviso which commences near the bottom of this page, and ends on page 255 with the word "certified".

⁴ As amended by Acts Jan. 17, 1914, ch. 9, 38 Stat. 275-277; May 26, 1922, ch. 202, §§ 1-4, 42 Stat. 596-598; June 7, 1924, ch. 352, 43 Stat. 657; July 1, 1944, ch. 377 § 8, 58 Stat. 721; Mar. 8, 1946, ch. 81, § 7, 60 Stat. 39; Nov. 2, 1951, ch. 666, §§ 1, 5 (1), 65 Stat. 767, 769; June 27, 1952, ch. 477, § 403 (a) (10), 66 Stat. 279.

⁵ Only the third paragraph under the heading "Miscellaneous" appearing on this page.

⁶ All of the paragraph commencing on page 832, "That from and after July first", and ending on page 833, except the final sentence of such paragraph, commencing, "That there is hereby appropriated".

⁷ Only the first proviso appearing on this page.

⁸ Only the proviso in the paragraph commencing, "Meat Inspection, Bureau of Animal Industry", and appearing on this page.

⁹ Only the proviso appearing on this page.

¹⁰ All of the paragraph beginning "Meat inspection, Bureau of Animal Industry", appearing on this page except the first sentence thereof.

¹¹ All of the fourth full paragraph appearing on this page.

¹² Only the last two provisos in the paragraph which begins on page 698 and ends on page 699, said two provisos appearing on page 699.

¹³ All of the paragraph which begins on page 712 and ends on page 713, except the final sentence of such paragraph.

¹⁴ As added by Act Aug. 27, 1935, ch. 743, 49 Stat. 885.

¹⁵ Only the proviso in the paragraph headed "Meat inspection", appearing on this page.

¹⁶ The amendments made by the Act of Feb. 7, 1923, ch. 30, to section 1 of Act May 29, 1884, ch. 60 (23 Stat. 31; 7 U. S. C., sec. 391), are also repealed, but such repeal shall not be construed as repealing such section 1 of the Act of 1884 (7 U. S. C., sec. 391) which, as amended by another section of this Act, shall remain in full force and effect.

¹⁷ The first proviso appearing on this page.

¹⁸ The proviso in the paragraph headed "Meat inspection," appearing on this page.

¹⁹ Only that part of this section which amends that part of Act June 30, 1906, ch. 3913, 34 Stat. 679 relating to a permanent appropriation for the inspection of cattle, sheep, swine, and goats and the meat and meat food products thereof, and expenses incidental to such inspection, including the proviso in subsection (a), and item (3) of subsection (b), of such section 2.

Statute at Large						U. S. Code	
Date	Chapter	Title	Section	Volume	Page	Title	Section
1938—June 25-----	675	-----	All	52	1040-1059	21	301, 321, 321a, 321h, 331-337, 341-346, 351-357, 361-364, 371, 372, 372a, 373-376, 381, 391, 392, and notes thereunder, and notes preceding 61, 141
June 29-----	810	-----		52	1235	21	91
1939—May 2-----	107	I	1 (part)	53	²⁰ 631	21	376 note
June 23-----	242	-----	1, 2, 3	53	853, 854	21	342 note, 343 note, 351 note, 352, 352 note, 361 note, 362 note
1940—June 27-----	437	I	101 (part)	54	²¹ 632	21	46a
1941—July 1-----	269	II (part)		55	²² 478	21	46a
July 11-----	289	-----	1, 2	55	584	21	184a, 184a note
Dec. 22-----	613	-----	1, 2, 3, 4	55	851, 852	21	331, 352, 356, 356 note
1942—Dec. 11-----	720	-----	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17	56	1045-1049	21	188, 188 note, 188a-188n
1943—July 12-----	221	II	1 (part)	57	²³ 500	21	372a
1944—Mar. 2-----	77	-----		58	108	21	321c
1944—Sept. 21-----	412	I	101 (a)	58	734	21	114a
1945—July 6-----	281	-----	1, 2, 3	59	463, 464	21	331, 352, 357
1947—Feb. 28-----	8	-----	1, 2, 3, 4	61	7, 8	21	114h, 114h note, 114c, 114d
Mar. 10-----	16	-----	1, 2, 3	61	11, 12	21	331, 352, 357
July 30-----	356	I	1 (part)	61	²⁴ 531, 532	21	97, 97a, 97h, 97c, 97d
1948—Apr. 24-----	229	-----		62	198	21	113a
June 5-----	423	-----		62	344	21	98
June 16-----	477	-----	1, 2	62	458	21	114e, 114f
June 24-----	613	-----	1, 2	62	582	21	331, 334
June 25-----	646	-----	5	62	986	21	193
1949—June 29-----	280	I	101 (part)	63	²⁵ 331		
July 13-----	305	-----	1, 2	63	409, 410	21	352, 357
Oct. 18-----	696	-----	1, 2, 3	63	882, 883	21	381
1950—Mar. 16-----	61	-----	3, 6	64	20, 22	21	331, 342, 347
1951—Oct. 26-----	578	-----	1, 2, 3	65	648, 649	21	347a, 347h
Oct. 30-----	637	-----	1, 2	65	693, 694	21	333, 333 note, 353, 353 note
Nov. 2-----	666	-----	1	65	767, 768	21	114a, 114a-1
1953—Aug. 5-----	334	-----	1, 2	67	389	21	174
Aug. 7-----	350	-----	1, 2, 3	67	476, 477	21	352, 357
Aug. 8-----	381	-----		67	493, 494	21	331, 334, 374
Do-----	394	-----	8	67	506	21	114a
1954—Apr. 15-----	143	-----	1, 2	68	54, 55	21	171
							341, 371

²⁰ In the paragraph beginning on page 631 and ending on page 632, only the words reading, "which section is hereby made immediately effective" appearing on page 631.

²¹ Only the proviso in the paragraph headed "Food and Drug Administration", appearing on this page.

²² Only the proviso in the paragraph beginning "Enforcement of Tea Importation Act:" appearing on this page.

²³ Only the following words in the second paragraph appearing on this page: "which may hereafter be cited as section 702A of the Federal Food, Drug, and Cosmetic Act".

²⁴ All of the paragraph beginning "Meat inspection:", which commences on page 531 and ends on page 532.

²⁵ The two provisos in the last paragraph on this page.

Passed the House of Representatives July 6, 1954.

Attest:

LYLE O. SNADER,

Clerk.

AN ACT

To revise, codify, and enact into law, title 21
of the United States Code, entitled "Food,
Drugs, and Cosmetics".

JULY 7 (legislative day, JULY 2), 1954

Read twice and referred to the Committee on the
Judiciary

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

Issued August 19, 1954

For actions of August 18, 1954

83rd-2nd, No. 161

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

CONTENTS

Advisory Committees.....23	Imports.....1	School lunch.....16
Animal-plant diseases....7	International agreements...14	Small business.....26
Appropriations.....2,20	Jump Memorial.....32	Subsidies.....33
CCC.....1,19	Labor, farm.....9	Surplus commodities.....16,19,31
Census.....7	Lands, reclamation...10,21	Tariffs.....16
Civil defense.....2	Law revision.....7	Trade, foreign.....24
Drought relief.....8,22,25	Loans, farm.....29,34	Transportation.....5
Economic situation.....16	Nomination.....13	Travel.....5
Education.....11	Patents.....3	TVA.....33
Farm program.....15,27	Personnel.....5,6,18,35	Unemployment compensation.....18
Flood control.....17	Postal rates.....6	Water compact.....12
Food & drugs.....7	Prices, support...16,23,33	Water facilities.....29,34
Foreign aid.....19,20	Research.....28	Wheat.....30
Forestry.....4	Retirement.....6,18	
Fruits & vegetables.....1		
Grain.....22		

HIGHLIGHTS: Senate passed bill to increase CCC borrowing power, and House concurred in amendment re mangoes imports. Senate agreed to conference report on supplemental appropriation bill and acted on amendments in disagreement. Senators criticized drought-relief administration. Senate debated Federal pay raise. Senate passed plant patenting bill. Senate passed bill permitting long-term leases of forest lands. Senate committee reported bill to codify food-drug laws. House agreed to conference report on fringe-benefits personnel bill. House concurred in Senate amendments to flood control bill. House concurred in Senate amendments to unemployment compensation bill. Reps. Whitten and Burdick criticized farm program bill. Rep. Hope inserted President's statement when signing water facilities bill. Sen. Fulbright inserted Democratic Digest article on farm program. Conferees agreed to file report on foreign-aid appropriation bill. Rep. Brown (Ga.) urged drought relief for Ga. Rep. Polk criticized agricultural advisory committees.

SENATE

1. COMMODITY CREDIT CORPORATION. Passed H. R. 9756, to increase the borrowing power of CCC from \$8½ billion to \$10 billion, with an amendment by Sen. Holland to add mangoes to the provision in the farm program bill which would require that certain imported fruits and vegetables comply with the standards of domestic marketing orders (pp. 14208-9). The House concurred in the amendment (p. 14179). This bill will now be sent to the President.
2. SUPPLEMENTAL APPROPRIATION BILL, 1955. Agreed to the conference report on this bill, H. R. 9936. Concurred in the House amendments, to Senate amendments, mentioned in Digest 160. Sen. Kefauver criticized plans to move headquarters of the Civil Defense Administration to Mich. (pp. 14213-23.) This bill will now be sent to the President.

3. PATENTS. Passed without amendment H. R. 5420, providing that a patent may be obtained on cultivated sports, mutants, hybrids, and newly found seedling plants (p. 14229). This bill will now be sent to the President.

Discussed and, on objection of Sen. Gore, passed over H. R. 3534, to authorize extension of patents covering inventions whose practice was prevented or curtailed during certain emergency periods (pp. 14255-6).

4. FORESTRY. Passed with amendment H. R. 1254, to permit 30-year leases of national forest and certain other Federal lands for public purposes (pp. 14227-8).

5. TRAVEL; TRANSPORTATION. Passed without amendment H. R. 179, which authorizes pay of travel expenses of certain civilian employees stationed outside continental U. S. and their immediate families in connection with taking periodic leaves of absence in the U. S., authorizes return of the immediate families and household goods of employees prior to the return of the employees under certain circumstances, etc. (p. 14229). This bill will now be sent to the President.

6. PERSONNEL. Passed without amendment H. R. 7785, to amend the Civil Service Retirement Act so as to make permanent the increases in regular annuities provided by the act of 1952, and to extend such increases to additional annuities purchased by voluntary contributions (p. 14247). This bill will now be sent to the President.

Concurred in a House amendment to S. 3627, to amend the Civil Service Retirement Act so as to require an employee to complete 1 year of creditable civilian service subject to the Act within the 2-year period preceding separation in order to establish title to his annuity from the civil service retirement and disability fund (p. 14306). This bill will now be sent to the President.

During debate on H. R. 2235, a reclamation bill, Sen. Johnston offered an amendment/the committee substitute for H. R. 7774 (the incentive-awards bill), which would grant a 5% Federal pay raise. The Johnston amendment was rejected, 47 to 30. (pp. 14292-8.)

During calendar call, discussed the committee provisions (as amendments to H. R. 7774) for a Federal pay raise and the Knowland amendments (which were printed in the Record) to provide a 3½% pay raise for classified employees and increases in postal rates. No action was taken on the amendments, but it was indicated that they would be formally considered later. (pp. 14230-1, 14249-55.)

The Post Office and Civil Service Committee reported without amendment H. R. 1553, to amend the Civil Service Retirement Act so as to provide for the inclusion in the computation of accredited service of certain periods of service rendered to States or instrumentalities of States (S. Rept. 2494) (p. 14201).

The Committee also reported S. Con. Res. 105, "to express the sense of the Congress on excusing Government employees from work on the afternoon of August 31, 1954, to attend the parade of the American Legion in the District of Columbia" (S. Rept. 2495) (p. 14201).

7. LAW REVISION. The Judiciary Committee reported with amendments bills to codify titles of the U. S. Code and enact them into positive law, as follows: H. R. 9728, title 21, regarding food, drugs, and animal-plant diseases (S. Rept. 2496); H. R. 9729, title 13, "Census" (S. Rept. 2497); and H. R. 9730, corrections of various obsolete references (S. Rept. 2498) (p. 14201).

8. DROUGHT RELIEF. Various Senators criticized USDA administration of the drought-relief program (pp. 14266-70; 14277-82).

9. FARM LABOR. Passed without amendment S. 3813, to permit immigration of certain

REVISION OF TITLE 21, UNITED STATES CODE, ENTITLED
"FOOD, DRUGS, AND COSMETICS"

AUGUST 18 (legislative day, AUGUST 5), 1954.—Ordered to be printed

Mr. BUTLER, from the Committee on the Judiciary, submitted the
following

REPORT

[To accompany H. R. 9728]

The Committee on the Judiciary, to which was referred the bill (H. R. 9728) to revise, codify, and enact into law title 21 of the United States Code, entitled "Food, Drugs, and Cosmetics," having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill, as amended, do pass.

AMENDMENT

Because of the extensive nature of the amendments, it is felt that a substitute bill is the method to properly handle the situation. However, in order that everyone will be apprised as to the exact nature of the Senate amendment, there follows in detail form the changes which the Senate is making to the House bill.

The amendments proposed by the Senate Committee on the Judiciary, together with the reasons for each, are listed below. They represent, for the most part, (1) technical and clerical amendments, and (2) in one instance they incorporate into this bill, an act dated July 22, 1954, affecting title 21, which had not been enacted into law at the time the instant bill passed the House.

Amendment No. 1: On page 2, insert after section 55 of the chapter analysis of chapter 3 the following catchline "56. Tolerances for pesticide chemicals in or on raw agricultural products." and renumber catchline sections Nos. 56, 57, 58, 59, 60, and 61 to 57, 58, 59, 60, 61, and 62, respectively.

Explanation: Effect of this amendment is to reflect the new section on pesticide chemicals which has been added to the bill as the result of the recent public law enacted on July 22, 1954 (ch. 559, 68 Stat. 511).

Amendment No. 2: Page 5, section 41 (l), substitute the numerals (1), (2), and (3) for the lowercase letters (a), (b), and (c).

Explanation: This change has been made for uniformity purposes.

Amendment No. 3: Page 5, at the end of section 41 add the following new subsections:

(q) The term "pesticide chemical" means any substance which, alone, in chemical combination or in formulation with one or more other substances, is an "economic poison" within the meaning of the Federal Insecticide, Fungicide, and Rodenticide Act as now in force or as hereafter amended, and which is used in the production, storage, or transportation of raw agricultural commodities.

(r) The term "raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing.

Explanation: These provisions have been added in order to include in the bill the provisions of the act of July 22, 1954 (ch. 559, sec. 1, 68 Stat. 511), of which they are a part.

Amendment No. 4: Pages 7 and 8, section 52 (a). Strike out all of the subsection after the words "and its quantity in such food does not ordinarily render" and insert the following:

it injurious to health; or (2) if it bears or contains any added poisonous or added deleterious substance, except a pesticide chemical in or on a raw agricultural commodity, which is unsafe within the meaning of section 55 of this title, or if it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of section 56 (a) of this title; or (3) if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for food; or (4) if it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth or whereby it may have been rendered injurious to health; or (5) if it is, in whole or in part, the product of a diseased animal or of an animal which has died otherwise than by slaughter; or (6) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

Explanation: This amendment reflects in this bill section 2 of the act of July 22, 1954 (ch. 559, §2, 68 Stat. 511), on pesticide chemicals.

Amendment No. 5: Page 8, section 52 (c), change "chapter" to read "subchapter".

Amendment No. 6: Pages 11-14, at the end of section 55, insert the following new section and thereafter renumber sections 56, 57, 58, 59, 60, and 61 to read 57, 58, 59, 60, 61, and 62, respectively.

56. Tolerances for pesticide chemicals in or on raw agricultural products

(a) PESTICIDE CHEMICALS DEEMED UNSAFE.—Any poisonous or deleterious pesticide chemical, or any pesticide chemical which is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety of pesticide chemicals, as safe for use, added to a raw agricultural commodity, shall be deemed unsafe for the purposes of the application of clause (2) of section 52 (a) of this title unless—

(1) a tolerance for such pesticide chemical in or on the raw agricultural commodity has been prescribed by the Secretary of Health, Education, and Welfare under this section and the quantity of such pesticide chemical in or on the raw agricultural commodity is within the limits of the tolerance so prescribed; or

(2) with respect to use in or on such raw agricultural commodity, the pesticide chemical has been exempted from the requirement of a tolerance by the Secretary under this section.

While a tolerance or exemption from tolerance is in effect for a pesticide chemical with respect to any raw agricultural commodity, such raw agricultural commodity shall not, by reason of bearing or containing any added amount of such pesticide chemical, be considered to be adulterated within the meaning of clause (1) of section 52 (a) of this title.

(b) REGULATIONS OF SECRETARY ESTABLISHING TOLERANCES.—The Secretary shall promulgate regulations establishing tolerances with respect to the use in or on raw agricultural commodities of poisonous or deleterious pesticide chemicals and of pesticide chemicals which are not generally recognized, among experts qualified by scientific training and experience to evaluate the safety of pesticide chemicals, as safe for use, to the extent necessary to protect the public health. In establishing any such regulation, the Secretary shall give appropriate consideration, among other relevant factors, (1) to the necessity for the production of an adequate, wholesome, and economical food supply; (2) to the other ways in which the consumer may be affected by the same pesticide chemical or by other related substances that are poisonous or deleterious; and (3) to the opinion of the Secretary of Agriculture as submitted with a certification of usefulness under subsection (l) of this section. Such regulations shall be promulgated in the manner prescribed in subsection (d) or (e) of this section. In carrying out the provisions of this section relating to the establishment of tolerances, the Secretary may establish the tolerance applicable with respect to the use of any pesticide chemical in or on any raw agricultural commodity at zero level if the scientific data before the Secretary does not justify the establishment of a greater tolerance.

(c) REGULATIONS OF SECRETARY REGARDING EXEMPTIONS.—The Secretary shall promulgate regulations exempting any pesticide chemical from the necessity of a tolerance with respect to use in or on any or all raw agricultural commodities when such a tolerance is not necessary to protect the public health. Such regulations shall be promulgated in the manner prescribed in subsection (d) or (e) of this section.

(d) PETITIONS FOR REGULATIONS; CONTENTS; PROCEDURE.—(1) Any person who has registered, or who has submitted an application for the registration of, an economic poison under the Federal Insecticide, Fungicide, and Rodenticide Act may file with the Secretary of Health, Education, and Welfare, a petition proposing the issuance of a regulation establishing a tolerance for a pesticide chemical which constitutes, or is an ingredient of, such economic poison, or exempting the pesticide chemical from the requirement of a tolerance. The petition shall contain data showing—

(A) the name, chemical identity, and composition of the pesticide chemical;

(B) the amount, frequency, and time of application of the pesticide chemical;

(C) full reports of investigations made with respect to the safety of the pesticide chemical;

(D) the results of tests on the amount of residue remaining, including a description of the analytical methods used;

(E) practicable methods for removing residue which exceeds any proposed tolerance;

(F) proposed tolerances for the pesticide chemical if tolerances are proposed; and

(G) reasonable grounds in support of the petition.

Samples of the pesticide chemical shall be furnished to the Secretary upon request. Notice of the filing of such petition shall be published in general terms by the Secretary within thirty days after filing. Such notice shall include the analytical methods available for the determination of the residue of the pesticide chemical for which a tolerance or exemption is proposed.

(2) Within ninety days after a certification of usefulness by the Secretary of Agriculture under subsection (l) of this section with respect to the pesticide chemical named in the petition, the Secretary of Health, Education, and Welfare shall, after giving due consideration to the data submitted in the petition or otherwise before him, by order make public a regulation—

(A) establishing a tolerance for the pesticide chemical named in the petition for the purposes for which it is so certified as useful, or

(B) exempting the pesticide chemical from the necessity of a tolerance for such purposes,

unless within such ninety-day period the person filing the petition requests that the petition be referred to an advisory committee or the Secretary within such

period otherwise deems such referral necessary, in either of which events the provisions of paragraph (3) of this subsection shall apply in lieu hereof.

(3) In the event that the person filing the petition requests, within ninety days after a certification of usefulness by the Secretary of Agriculture under subsection (1) of this section with respect to the pesticide chemical named in the petition, that the petition be referred to an advisory committee, or in the event the Secretary of Health, Education, and Welfare within such period otherwise deems such referral necessary, the Secretary of Health, Education, and Welfare shall forthwith submit the petition and other data before him to an advisory committee to be appointed in accordance with subsection (g) of this section. As soon as practicable after such referral, but not later than sixty days thereafter, unless extended as hereinafter provided, the committee shall, after independent study of the data submitted to it by the Secretary and other data before it, certify to the Secretary a report and recommendations on the proposal in the petition to the Secretary, together with all underlying data and a statement of the reasons or basis for the recommendations. The sixty-day period provided for herein may be extended by the advisory committee for an additional thirty days if the advisory committee deems this necessary. Within thirty days after such certification, the Secretary shall, after giving due consideration to all data then before him, including such report, recommendations, underlying data, and statement, by order make public a regulation—

(A) establishing a tolerance for the pesticide chemical named in the petition for the purposes for which it is so certified as useful; or

(B) exempting the pesticide chemical from the necessity of a tolerance for such purposes.

(4) The regulations published under paragraph (2) or (3) of this subsection will be effective upon publication.

(5) Within thirty days after publication, any person adversely affected by a regulation published pursuant to paragraph (2) or (3) of this subsection, or pursuant to subsection (c) of this section, may file objections thereto with the Secretary, specifying with particularity the provisions of the regulation deemed objectionable, stating reasonable grounds therefor, and requesting a public hearing upon such objections. A copy of the objections filed by a person other than the petitioner shall be served on the petitioner, if the regulation was issued pursuant to a petition. The petitioner shall have two weeks to make a written reply to the objections. The Secretary shall thereupon, after due notice, hold such public hearing for the purpose of receiving evidence relevant and material to the issues raised by such objections. Any report, recommendations, underlying data, and reasons certified to the Secretary by an advisory committee shall be made a part of the record of the hearing, if relevant and material, subject to the provisions of section 1006 (c) of title 5. The National Academy of Sciences shall designate a member of the advisory committee to appear and testify at any such hearing with respect to the report and recommendations of such committee upon request of the Secretary, the petitioner, or the officer conducting the hearing. Any other member of the advisory committee may appear and testify at such hearing. As soon as practicable after completion of the hearing, the Secretary shall act upon such objections and by order make public a regulation. Such regulation shall be based only on substantial evidence of record at such hearing including any report, recommendations, underlying data, and reasons certified to the Secretary by an advisory committee, and shall set forth detailed findings of fact upon which the regulation is based. No such order shall take effect prior to the ninetieth day after its publication, unless the Secretary finds that emergency conditions exist necessitating an earlier effective date, in which event the Secretary shall specify in the order his findings as to such conditions.

(e) PROPOSAL OF REGULATIONS BY SECRETARY; PROCEDURE.—The Secretary may at any time, upon his own initiative or upon the request of any interested person, propose the issuance of a regulation establishing a tolerance for a pesticide chemical or exempting it from the necessity of a tolerance. Thirty days after publication of such a proposal, the Secretary may by order publish a regulation based upon the proposal which shall become effective upon publication unless within such thirty-day period a person who has registered, or who has submitted an application for the registration of, an economic poison under the Federal Insecticide, Fungicide, and Rodenticide Act containing the pesticide chemical named in the proposal, requests that the proposal be referred to an advisory committee. In the event of such a request, the Secretary shall forthwith submit

the proposal and other relevant data before him to an advisory committee to be appointed in accordance with subsection (g) of this section. As soon as practicable after such referral, but not later than sixty days thereafter, unless extended as hereinafter provided, the committee shall, after independent study of the data submitted to it by the Secretary and other data before it, certify to the Secretary a report and recommendations on the proposal together with all underlying data and a statement of the reasons or basis for the recommendations. The sixty-day period provided for herein may be extended by the advisory committee for an additional thirty days if the advisory committee deems this necessary. Within thirty days after such certification, the Secretary may, after giving due consideration to all data before him, including such report, recommendations, underlying data and statement, by order publish a regulation establishing a tolerance for the pesticide chemical named in the proposal or exempting it from the necessity of a tolerance which shall become effective upon publication. Regulations issued under this subsection shall upon publication be subject to paragraph (5) of subsection (d) of this section.

(f) **CONFIDENTIAL CHARACTER OF DATA UNTIL PUBLICATION.**—All data submitted to the Secretary or to an advisory committee in support of a petition under this section shall be considered confidential by the Secretary and by such advisory committee until publication of a regulation under paragraph (2) or (3) of subsection (d) of this section. Until such publication, such data shall not be revealed to any person other than those authorized by the Secretary or by an advisory committee in the carrying out of their official duties under this section.

(g) **ADVISORY COMMITTEES; APPOINTMENT AND FUNCTIONS; COMPENSATION; CLERICAL ASSISTANCE.**—Whenever the referral of a petition or proposal to an advisory committee is requested under this section, or the Secretary otherwise deems such referral necessary the Secretary shall forthwith appoint a committee of competent experts to review the petition or proposal and to make a report and recommendations thereon. Each such advisory committee shall be composed of experts, qualified in the subject matter of the petition and of adequately diversified professional background selected by the National Academy of Sciences and shall include one or more representatives from land-grant colleges. The size of the committee shall be determined by the Secretary. Members of an advisory committee shall receive as compensation for their services a reasonable per diem, which the Secretary shall by rules and regulations prescribe, for time actually spent in the work of the committee, and shall in addition be reimbursed for their necessary traveling and subsistence expenses while so serving away from their places of residence. The members shall not be subject to any other provisions of law regarding the appointment and compensation of employees of the United States. The Secretary shall furnish the committee with adequate clerical and other assistance, and shall by rules and regulations prescribe the procedure to be followed by the committee.

(h) **RIGHT OF CONSULTATION WITH COMMITTEE.**—A person who has filed a petition or who has requested the referral of a proposal to an advisory committee in accordance with the provisions of this section, as well as representatives of the Department of Health, Education, and Welfare, shall have the right to consult with any advisory committee provided for in subsection (g) of this section in connection with the petition or proposal.

(i) **JUDICIAL REVIEW OF ORDERS; PROCEDURE, ETC.**—(1) In a case of actual controversy as to the validity of any order under subsection (d) (5), (e), or (l) of this section any person who will be adversely affected by such order may obtain judicial review by filing in the United States Court of Appeals for the circuit wherein such person resides or has his principal place of business, or in the United States Court of Appeals for the District of Columbia Circuit, within sixty days after the entry of such order, a petition praying that the order be set aside in whole or in part.

(2) In the case of a petition with respect to an order under subsection (d) (5) or (e) of this section, a copy of the petition shall be forthwith served upon the Secretary, or upon any officer designated by him for that purpose, and thereupon the Secretary shall certify and file in the court a transcript of the proceedings and the record on which he based his order. Upon such filing, the court shall have exclusive jurisdiction to affirm or set aside the order complained of in whole or in part. The findings of the Secretary with respect to questions of fact shall be sustained if supported by substantial evidence when considered on the record as a whole, including any report and recommendation of an advisory committee.

(3) In the case of a petition with respect to an order under subsection (1) of this section, a copy of the petition shall be forthwith served upon the Secretary of Agriculture, or upon any officer designated by him for that purpose, and thereupon the Secretary shall certify and file in the court a transcript of the proceedings and the record on which he based his order. Upon such filing, the court shall have exclusive jurisdiction to affirm or set aside the order complained of in whole or in part. The findings of the Secretary with respect to questions of fact shall be sustained if supported by substantial evidence when considered on the record as a whole.

(4) If application is made to the court for leave to adduce additional evidence, the court may order such additional evidence to be taken before the Secretary of Health, Education, and Welfare or the Secretary of Agriculture, as the case may be, and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper, if such evidence is material and there were reasonable grounds for failure to adduce such evidence in the proceedings below. The Secretary of Health, Education, and Welfare or the Secretary of Agriculture, as the case may be, may modify his findings as to the facts and order by reason of the additional evidence so taken, and shall file with the court such modified findings and order.

(5) The judgment of the court affirming or setting aside, in whole or in part, any order under this section shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28. The commencement of proceedings under this section shall not, unless specifically ordered by the court to the contrary, operate as a stay of an order. The courts shall advance on the docket and expedite the disposition of all causes filed therein pursuant to this section.

(j) **TEMPORARY TOLERANCES.**—The Secretary may, upon the request of any person who has obtained an experimental permit for a pesticide chemical under the Federal Insecticide, Fungicide, and Rodenticide Act or upon his own initiative, establish a temporary tolerance for the pesticide chemical for the uses covered by the permit whenever in his judgment such action is deemed necessary to protect the public health, or may temporarily exempt such pesticide chemical from a tolerance. In establishing such a tolerance, the Secretary shall give due regard to the necessity for experimental work in developing an adequate, wholesome, and economical food supply and to the limited hazard to the public health involved in such work when conducted in accordance with applicable regulations under the Federal Insecticide, Fungicide, and Rodenticide Act.

(k) **RATIFICATION OF REGULATIONS UNDER PRIOR LAW.**—Regulations affecting pesticide chemicals in or on raw agricultural commodities which were promulgated under the authority of section 406 (a) of the Federal Food, Drug, and Cosmetic Act (of 1938) upon the basis of public hearings instituted before January 1, 1953, in accordance with section 701 (c) of such Act shall be deemed to be regulations under this section and shall be subject to amendment or repeal as provided in subsection (m) of this section.

(l) **CERTIFICATION OF USEFULNESS BY SECRETARY OF AGRICULTURE; PROCEDURE; HEARINGS, ETC.**—The Secretary of Agriculture, upon request of any person who has registered, or who has submitted an application for the registration of, an economic poison under the Federal Insecticide, Fungicide, and Rodenticide Act, and whose request is accompanied by a copy of a petition filed by such person under subsection (d) (1) of this section with respect to a pesticide chemical which constitutes, or is an ingredient of, such economic poison, shall, within thirty days or within sixty days if upon notice prior to the termination of such thirty days the Secretary deems it necessary to postpone action for such period, on the basis of data before him, either—

(1) certify to the Secretary of Health, Education, and Welfare that such pesticide chemical is useful for the purpose for which a tolerance or exemption is sought; or

(2) notify the person requesting the certification of his proposal to certify that the pesticide chemical does not appear to be useful for the purpose for which a tolerance or exemption is sought, or appears to be useful for only some of the purposes for which a tolerance or exemption is sought.

In the event that the Secretary of Agriculture takes the action described in clause (2) of the preceding sentence, the person requesting the certification, within one week after receiving the proposed certification, may either (A) request the Secretary of Agriculture to certify to the Secretary of Health, Education, and Welfare on the basis of the proposed certification; (B) request a hearing on the proposed certification or the parts thereof objected to; or (C) request both such

certification and such hearing. If no such action is taken, the Secretary may by order make the certification as proposed. In the event that the action described in clause (A) or (C) is taken, the Secretary shall by order make the certification as proposed with respect to such parts thereof as are requested. In the event a hearing is requested, the Secretary of Agriculture shall provide opportunity for a prompt hearing. The certification of the Secretary of Agriculture as the result of such hearing shall be made by order and shall be based only on substantial evidence of record at the hearing and shall set forth detailed findings of fact. In no event shall the time elapsing between the making of a request for a certification under this subsection and final certification by the Secretary of Agriculture exceed one hundred and sixty days. The Secretary shall submit to the Secretary of Health, Education, and Welfare with any certification of usefulness under this subsection an opinion, based on the data before him, whether the tolerance or exemption proposed by the petitioner reasonably reflects the amount of residue likely to result when the pesticide chemical is used in the manner proposed for the purpose for which the certification is made. The Secretary of Agriculture, after due notice and opportunity for public hearing, is authorized to promulgate rules and regulations for carrying out the provisions of this subsection.

(m) REGULATIONS COVERING PROCEDURE FOR AMENDING OR REPEALING REGULATIONS.—The Secretary of Health, Education, and Welfare shall prescribe by regulations the procedure by which regulations under this section may be amended or repealed, and such procedure shall conform to the procedure provided in this section for the promulgation of regulations establishing tolerances, including the appointment of advisory committees and the procedure for referring petitions to such committees.

(n) APPLICABILITY OF SECTION 152 (c).—The provisions of section 152 (c) of this title with respect to the furnishing of guaranties shall be applicable to raw agricultural commodities covered by this section.

(o) PAYMENT OF FEES; WAIVERS AND REFUNDS.—The Secretary of Health, Education, and Welfare shall by regulation require the payment of such fees as will in the aggregate, in the judgment of the Secretary, be sufficient over a reasonable term to provide, equip, and maintain an adequate service for the performance of the Secretary's functions under this section. Under such regulations, the performance of the Secretary's services or other functions pursuant to this section, including any one or more of the following, may be conditioned upon the payment of such fees: (1) The acceptance of filing of a petition submitted under subsection (d) of this section; (2) the promulgation of a regulation establishing a tolerance, or an exemption from the necessity of a tolerance, under this section, or the amendment or repeal of such a regulation; (3) the referral of a petition or proposal under this section to an advisory committee; (4) the acceptance for filing of objections under subsection (d) (5) of this section; or (5) the certification and filing in court of a transcript of the proceedings and the record under subsection (i) (2) of this section. Such regulations may further provide for waiver or refund of fees in whole or in part when in the judgment of the Secretary such waiver or refund is equitable and not contrary to the purposes of this subsection.

Explanation: This amendment brings into the provisions of this bill section 3 of the act of July 22, 1954 (ch. 559, 68 Stat. 511), on pesticide chemicals. It is based on title 21 United States Code, 1952 edition, section 346a.

Amendment No. 7: Page 15, section 71 (a), transfer the words "A drug or device is deemed to be adulterated—" from their present position in the subsection and insert them, on a separate line, above the words "(a) Poisonous, Insanitary, etc., Ingredients—"

Explanation: This amendment corrects a typographical error which misplaced in the printing of the bill the lines referred to above.

Amendment No. 8: Page 15, section 71 (b), change the word "Pharmacopoeia" to read "Pharmacoepia" in each instance where it appears.

Explanation: This change omits one of the o's in Pharmacoepia, a more up-to-date spelling of that word.

Amendment No. 9: Page 16, section 72 (d), change the words "which derivatives" to read "which derivative".

Explanation: Corrects a typographical error and changes "derivatives" from plural to singular.

Amendment No. 10: Page 28, section 112, substitute the lowercase letters (a), (b), and (c) for the numerals (1), (2), and (3).

Explanation: Change was made to make the style of the bill uniform throughout.

Amendment No. 11: Pages 29, 34, 35, 36, sections 131 (e); 151 (d), (i), (j), (m); 152 (c) (2), and 154 (a), substitute the number "57" for the number "56", "58" for "57", and "60" for "59" in each instance where they appear.

Explanation: Changes were made necessary to reflect the references to former sections 56, 57, and 58 which were renumbered 57, 58, and 59.

Amendment No. 12: Page 36, section 153, substitute the letters "(e), (f), (h), (i), and (j)," for the numbers "(5), (6), (8), (9), and (10)," as they appear in the section.

Explanation: Changes made in order to make bill uniform throughout.

Amendment No. 13: Page 36, section 154:

Insert the number (1) after the subsection symbol (c).

Substitute "A" for "(1)"; "B" for "(2)" in subsection (c).

Insert the symbol (2) before the beginning of the last paragraph of subsection (c).

Explanation: Changes made to make styling uniform throughout bill.

Amendment No. 14: Pages 40-42:

Section 204 (a), substitute "section 203 (a), (b), and (c)" for "clauses (1), (2), and (3) of section 203" in each instance where it appears.

Section 204 (b), substitute "section 203 (d)" for "paragraph (4) of section 203" and "203 (d)" for "203, paragraph (4)".

Section 204 (c), substitute "section 203 (b) and (e)" for "paragraphs (2) and (5) of section 203" in each instance where it appears.

Section 204 (d) substitute "section 203 (a), (b), and (c)" for "paragraphs (1), (2), and (3) of section 203" and substitute "has" for "have" in the phrase "have been complied with".

Explanation: Changes made to make styling uniform throughout bill.

Amendment No. 15: Page 51, section 314, substitute letters "(a)", "(b)" and "(c)" of "(1)", "(2)" and "(3)" respectively.

Explanation: Changes made for styling purposes.

Amendment No. 16: Page 52, section 316:

Subsection (b) (2), strike out period at the end of the sentence and substitute "; or".

Subsection (b) (3), strike out "; or" and substitute a period.

Explanation: To correct typographical error.

Amendment No. 17: Page 77, section 761 (a), strike out the words "isonipecaïne" and "opiate". Also strike out the words "these terms" and insert in lieu thereof "the term 'narcotic drugs'".

Explanation: A study of chapter 93 of the revision reveals that the words "isonipecaïne" and "opiate" are not used in the chapter and, accordingly, need not be defined.

Amendment No. 18: Page 79, section 765 (a), after the phrase "or in section 2557 (b) (1) of the Internal Revenue Code" insert the

phrase "or in laws derived from section 2557 (b) (1)" and after the phrase "or section 2557 (b) (1) or 2596 of the Internal Revenue Code, as amended" insert the phrase "or in laws derived from section 2557 (b) (1) and section 2596".

Explanation: This amendment is made in anticipation of the tax-revision bill, H. R. 8300, which is now pending in the Congress. Should the tax revision bill become law prior to the instant bill, the amendments herein will properly reflect the new tax law. Should the proposed tax revision fail to be enacted into law or should the instant bill become effective before the tax bill, the language used in this bill will be broad enough to encompass both situations. In any event, since the provisions of this bill will not become effective until January 1, 1955, any inaccuracy brought about by pending legislation can be quickly corrected in the next session of Congress.

Amendment No. 19: Page 88, section 10, strike out all of section 10 of the bill and insert in lieu thereof the following:

SEC. 10. This Act shall take effect on January 1, 1955, except that, with respect to pesticide chemicals for which tolerances or exemptions have not been established under section 408 of the Federal Food, Drug, and Cosmetic Act as in effect prior to the enactment of this Act or under section 56 of the Federal Food, Drug, and Cosmetic Act as enacted by section 1 of this Act, the provisions of clause (2) of section 52 (a) of title 21, United States Code, set out in section 1 of this Act which relate to pesticide chemicals in or on raw agricultural commodities shall not be effective—

(1) for the period of one year following July 22, 1954; or

(2) for such additional period following such period of one year, but not extending beyond two years after July 22, 1954, as the Secretary of Health, Education, and Welfare may prescribe on the basis of a finding that conditions exist which necessitate the prescribing of such additional period.

Explanation: Amendment to section 10 was necessitated by section 5 of the act of July 22, 1954 (ch. 559, 68 Stat. 511), which set up several effective dates for the various provisions on pesticide chemicals.

Amendment No. 20: Page 90, section 11, at the end of the tables add the following new insert to the Schedule of Laws Repealed.

July 22-----	559	-----	1, 2, 3, 4, 5-----	68	511	21	321, 342, 342 notes, 346a.
--------------	-----	-------	--------------------	----	-----	----	-------------------------------

Explanation: Since the provisions of Public Law 518, dated July 22, 1954, have been classified to and included in this revision, the law itself is included in the table of repeals.

Amendment No. 21: Clause (1) of subsection (d) of section 41 is amended to read "intended to be rubbed, poured, sprinkled, or sprayed on, or otherwise applied to or introduced into the human body for cleansing, beautifying, promoting attractiveness, or altering the appearance, and".

Explanation: This amendment restores the categorical words found in the present statute.

Amendment No. 22: Amend section 53 (j) to read as follows:

If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the Secretary determines to be and by regulations prescribes as necessary in order fully to inform purchasers as to its value for such uses.

Explanation: This amendment restores the requirement that the Secretary must make a determination before issuing regulations prescribing labeling changes, and thus avoids the possibility that the

new language might be construed to exempt the Secretary from the necessity for holding a hearing on the question before issuing the new regulations.

Amendment No. 23: Amend subparagraph (6) of subsection (f) of section 131 by adding at the end thereof the following new sentence:

Nothing in this section shall be deemed to waive or deny any right otherwise accorded by the Administrative Procedure Act, and such Act shall continue to apply to all activities of the Food and Drug Administration.

Explanation: This amendment is intended to make it clear that reenactment of the procedural provisions in this section do not constitute repeal or waiver of the Administrative Procedure Act or rights accorded thereunder.

Amendment No. 24: Subsection (a) of section 134 is amended by striking out the word "may", immediately preceding (1) and inserting in lieu of such word the words "are authorized".

Explanation: The purpose of this amendment is to comport the language of this section to the provision in subsection 151 (f), establishing a penalty for refusal to permit entry or inspection "as authorized" by section 134; also, to restore the phrase ("as authorized") which appears in the similar section of the present law, and which has been judicially interpreted.

Amendment No. 25: Amend subparagraph (2) of subsection (e) of section 154 by changing the comma after the word "health" to a period and striking out the rest of the subparagraph.

Explanation: The purpose of this amendment is to make it clear that the Secretary is not authorized to act without a hearing except in the case of articles which are dangerous to health. If there is no danger to health, due process should require that there be a hearing so as to avoid arbitrary action by the Secretary.

STATEMENT

The purpose of the bill is to codify and revise the laws relating to food, drugs, and cosmetics. There is today a tremendous amount of statutory material upon this subject, much of which is archaic, ambiguous, conflicting, and, to an unascertained extent, repealed by implication by later statutes. These statutes are scattered through many volumes of the Statutes at Large which are not easily accessible and which result in the loss of much time and effort on the part of those who make daily and frequent use of the statutes in determining what is the present law in this field, always at the risk of possible error.

It is evident, therefore, that a thorough codification and revision of these statutes is very much in the public interest in order that the law in this important field may be clear, certain, and readily available.

The bill, H. R. 9728, accomplishes these desirable results. The statutory material presently in force and set out for the most part, as title 21, United States Code, has been rearranged in the bill in a logical and consistent way, rendering it easily ascertainable. Existing inconsistencies and ambiguities have been removed and obsolete and archaic provisions eliminated or modernized.

By enacting this bill into positive law as title 21 of the United States Code, that title will thereby become the law rather than merely prima facie evidence of the law, and reference to the Statutes at Large will be rendered wholly unnecessary.

Many noncontroversial improvements have been effected which, while individually small in themselves, add up to a very substantial improvement in and modernization of the law relating to food, drugs, and cosmetics. At the same time great care has been exercised to make no changes in the existing law which would not meet with substantially unanimous approval.

The bill, with the amendments proposed by the committee, includes all pertinent laws to July 22, 1954, and the bill provides for it to become effective January 1, 1955, thus allowing an interval in which all may become acquainted with the revised arrangement of the law.

The report of the Committee on the Judiciary of the House of Representatives upon the bill (H. Rept. 1979, 83d Cong., 2d sess.) describes in detail the scope of the revision, the manner in which it was carried out by the House Committee on the Judiciary and the principal improvements effected. Appended to the report are the revisers' notes to each section, together with accompanying tables. These explain in great detail the source of the law and the changes made in the course of the codification and revision.

This proposed legislation, it may be well to point out, is not new, having been before previous Congresses as H. R. 9158, 81st Congress, and H. R. 3758, 82d Congress. Over the last few years the House Committee on the Judiciary has been communicating with the executive departments and with those private associations who are principally concerned with this legislation and the instant bill incorporates their suggestions and recommendations. At the end of this report there are set out the communications of the various executive departments to the Congress on this legislation.

Attached hereto is House Report No. 1979, to accompany H. R. 9728, above referred to.

PRELIMINARY STATEMENT

PURPOSE OF REVISION

The purpose of this bill is to revise, codify, and enact into law title 21 of the United States Code.

Revision, as distinguished from codification, means the substitution of plain language for awkward terms, reconciliation of conflicting laws, omission of superseded sections, and consolidation of similar provisions. The primary purpose of this revision is not to change substantive law, but to put that law in a form which will be more useful and understandable. Wherever substantive changes are made (which were few), the explanation thereof and the reasons therefor are given in the Revision Note to the section concerned.

SCOPE OF REVISION

This revision is based upon title 21 of the 1952 edition of the United States Code, with the addition of certain provisions from title 15 which are transferred to improve the arrangement of the Code as a whole.

This revision includes all laws applicable to title 21, enacted through April 15, 1954.

Before actual revision was begun a scientific plant was assembled. This included:

1. The complete text of title 21, U. S. C., 1952 ed.
2. The complete text of original acts from the Statutes at Large.
3. Applicable constructions of the courts.
4. Applicable rules and regulations.
5. Pertinent congressional reports, law review articles, and other background materials.

ARRANGEMENT AND NUMBERING

First a preliminary analysis was prepared—a framework on which to build the new title. To improve the arrangement of the title, the old classification was discarded and a new one adopted.

The provisions of this title are now administered, under delegation of powers, by three separate agencies: the Food and Drug Administration in the Department of Health, Education, and Welfare, the Bureau of Animal Industry in the Department of Agriculture, and the Bureau of Narcotics in the Department of the Treasury. Since the provisions administered by each of these agencies are substantially independent of the other provisions, the revised title was divided into the following parts:

PART I. FOOD, DRUGS, AND COSMETICS

This part includes all the laws administered, under delegation of powers, by the Food and Drug Administration in the Department of Health, Education, and Welfare. They are:

Food, Drug, and Cosmetic Act (21 U. S. C., 1952 ed., § 301 et seq.)

Import Milk Act (21 U. S. C., 1952 ed., § 141 et seq.)

Filled Milk Act (21 U. S. C., 1952 ed., § 61 et seq.)

Tea Act (21 U. S. C., 1952 ed., § 41 et seq.)

Caustic Poison Act (15 U. S. C., 1952 ed., § 401 et seq.)

The Food and Drug Administration originated in the Department of Agriculture and was given that name in the Department of Agriculture Appropriation Act of 1931, Act May 27, 1930, c. 341, 46 Stat. 392, 422. By 1940 Reorganization Plan No. IV, § 12, effective June 30, 1940, 5 F. R. 2422, 54 Stat. 1237, set out in note to section 133t of Title 5 U. S. C., the Food and Drug Administration and its functions, except those relating to insecticides (7 U. S. C., § 121 et seq.) and naval stores (7 U. S. C., § 91 et seq.), were transferred from the Department of Agriculture to the Federal Security Agency, to be administered under the direction and supervision of the Federal Security Administrator. 1953 Reorganization Plan No. 1, §§ 5, 8, 18 F. R. 2053, 67 Stat. 632, abolished the Federal Security Agency and the office of Federal Security Administrator, transferred the functions of the former to the Department of Health, Education, and Welfare (created by sec. 1 thereof), and transferred the functions of the Federal Security Administrator to the Secretary of such Department. That plan became effective April 11, 1953, under Joint Resolution April 1, 1953, ch. 14, 67 Stat. 18. For a discussion of the effect of these transfers on the laws included in this part, see the Revision Notes to sections 1 and 2 of this revision.

The Federal Food, Drug, and Cosmetic Act of 1938 constitutes most of chapter 3 of this revision. The chapter includes all of those

provisions of the Oleomargarine Tax Repeal Act of March 16, 1950 (ch. 61, 64 Stat. 20), which amended the Federal Food, Drug, and Cosmetic Act of 1938, as well as all other provisions of such 1950 act that were classified to title 21. The earliest legislation relating to food and drugs concerned their importation. The first comprehensive enactment for the protection of consumers against adulterated and misbranded food and drugs was the Wiley Pure Food and Drugs Act of 1906. Although that law was of incalculable benefit to the consumer, loopholes appeared and it became evident that it was not sufficiently broad in scope to meet the requirements of consumer protection under modern conditions. After 5 years of studies and hearings by congressional committees, the Federal Food, Drug, and Cosmetic Act was adopted in 1938. The form and style of that act are such that very little change has been found necessary in incorporating it into this revision. A somewhat more logical arrangement was adopted by transferring the subchapter on enforcement and penalties to the end of the chapter.

Chapter 5 of the revision contains the Import Milk Act, which was enacted in 1927 and the Filled Milk Act of 1923. These have been included as subchapters of a single chapter entitled "Milk and Cream".

The Federal Tea Act of 1897 constitutes chapter 7 of the revision. It governs the standards for tea imported into the United States.

Chapter 9 of the revision relates to caustic poisons and is from sections 401-411 of title 15, U. S. C., 1952 ed. These provisions have been transferred to this revised title because they are administered by the Secretary of Health, Education, and Welfare through the Food and Drug Administration. This transfer places all laws administered by the latter in one title of the Code.

PART II. ANIMALS, POULTRY, AND MEATS

This part contains three enactments which are administered by the Secretary of Agriculture through the Bureau of Animal Industry, namely, Meat Inspection, Disease Prevention and Transportation of Animals and Poultry, and Serums and Analogous Products for Animal Use. The establishment of that Bureau is provided for by 7 U. S. C. § 391 et seq. Those provisions were not transferred to this title because other functions of the Secretary through that Bureau are contained in other titles. Provisions of other titles which are administered, under such delegation of functions, by the Bureau include:

- 7 U. S. C. § 391 et seq. General functions.
- 7 U. S. C. § 429. Improvement of poultry, poultry products and hatcheries.
- 7 U. S. C. § 430. Purchase and testing of serums and analogous improducts.
- 7 U. S. C. § 851 et seq. Marketing of anti-hog-cholera serum, etc.
- 19 U. S. C. § 1201, par. 1606. Certificates of pure breeding for ported animals.
- 19 U. S. C. § 1306. Imports of meat and of animals from certain countries.
- 45 U. S. C. § 71 et seq. 28-Hour Law concerning transportation of animals.
- 46 U. S. C. §§ 466a, 466b. Accommodations on vessels for export animals.

Chapter 53 of the revision contains the Meat Inspection Act of 1907. These provisions are very important to the consumer and provide a complete system of federal supervision of meat "from the hoof to the can." Because this act was drafted in 1907, much improvement in phraseology and arrangement was possible. The 1919 act concerning horse meat is also incorporated in this chapter. The provisions of this chapter are made applicable to imported meats by 19 U. S. C. § 1306.

Provisions concerning the control and eradication of animal and poultry diseases are contained in chapter 55 of the revision. These provisions have been rearranged within the chapter in the following general groups: (1) Control and eradication generally, including cooperation with the States, research, and the disposal of diseased or exposed animals and poultry; (2) Regulation of the transportation of animals and poultry, including quarantine of infected areas; and (3) Regulation of the importation and exportation of animals and poultry. Closely related provisions concerning importation of animals from countries where certain diseases exist are contained in 19 U. S. C. § 1306.

Chapter 57 relates to the preparation and sale of any virus, serum, toxin, or analogous product intended for animal use. These provisions were enacted in 1913 and their arrangement and phraseology have been improved in the revision. The control of such products for human use is entrusted to the Public Health Service under 42 U. S. C. § 262. Regulation of the marketing of anti-hog-cholera serum and hog-cholera virus is provided for by 7 U. S. C. § 851 et seq.

PART III. NARCOTICS

This part contains provisions concerning the importation and exportation of narcotics and the control of domestic production of the opium poppy. Obsolete provisions relating to the extraterritorial rights of the United States in China were omitted from the revision.

The establishment of the Bureau of Narcotics, within the Treasury Department, is provided for in 5 U. S. C. §§ 282-282c. Those sections were not transferred to this title because other functions of the Bureau of Narcotics, under delegated powers, are contained in other titles of the United States Code.

The control of narcotics within the United States, which is administered under delegated functions by both the Bureau of Narcotics and the Internal Revenue Service, is provided for in the Internal Revenue Code, 26 U. S. C. § 2550 et seq. Provisions concerning the forfeiture of vessels, vehicles, and aircraft involved with contraband narcotics are contained in 49 U. S. C. § 781 et seq.

REVISION NOTES AND TABLES

The Revision Notes are keyed to sections of the revision and explain the changes made in text. References to court decisions are supplied wherever necessary and appropriate.

Reference tables are incorporated to facilitate the work of all those interested in the revision. These show the distribution of statutes and of sections from the United States Code in this revision and also omitted and transferred sections.

REVISION NOTES

Revision notes, explaining the revision of each section of the Federal food, drug, and cosmetic laws, are set forth in this Appendix in numerical order according to section number of the revised title.

Preceding the notes is an analysis of the three parts making up the revised title. Following each part heading is an analysis of the chapters contained in such part, and, under each chapter heading, there is an analysis of sections constituting such chapter.

Title 21

FOOD, DRUGS, AND COSMETICS

Part	Sec.
I. Food and drugs generally.....	1
II. Animals, poultry, and meats.....	451
III. Narcotics.....	711

PART I.—FOOD, DRUGS, AND COSMETICS GENERALLY

Chapter	Sec.
1. Food and Drug Administration.....	1
3. Food, drugs, and cosmetics.....	41
5. Milk and cream.....	201
7. Tea importation.....	261
9. Caustic poisons.....	311

CHAPTER 1—FOOD AND DRUG ADMINISTRATION

Sec.
1. Establishment.
2. Functions of Secretary of Health, Education, and Welfare.
3. Board of Tea Experts.
4. Board of Tea Appeals.

SECTION 1—NEW SECTION

Based on Act May 27, 1930, ch. 341, 46 Stat. 392, 422; 1940 Reorganization Plan No. IV, §§ 12, 13, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237, 5 U. S. C., 1952 ed., § 133t note; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632, 5 U. S. C., 1952 ed., § 623 note.

The name "Food and Drug Administration" was first provided by the Agricultural Appropriation Act of 1931, Act May 27, 1930, cited above, although its functions had been performed under different organizational titles since January 1, 1907, when the Food and Drugs Act of 1906 became effective. Before 1940 the administration of the laws from which this part was derived was vested in the Secretary of Agriculture. By 1940 Reorganization Plan No. IV, cited above, the Food and Drug Administration and its functions, except those

relating to insecticides (7 U. S. C. § 121 et seq.) and naval stores (7 U. S. C. § 91 et seq.), were transferred from the Department of Agriculture to the Federal Security Agency and the title of Chief of the Food and Drug Administration was changed to Commissioner of Food and Drugs. By 1953 Reorganization Plan No. 1, cited above (see also, Revision Note to section 2 of this title), the Federal Security Agency was abolished and its agencies and functions transferred to the Department of Health, Education, and Welfare which was created by section 1 of that plan.

This new section is inserted in the revision to make clear the statutory basis for the Food and Drug Administration.

SECTION 2—NEW SECTION

Based on 1940 Reorganization Plan No. IV, §§ 12, 13, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237, 5 U. S. C., 1952 ed., § 133t note; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632, 5 U. S. C., 1952 ed., § 623 note.

As pointed out in the Revision Note to section 1 of this revision, the 1940 Reorganization Plan transferred the Food and Drug Administration and certain of its functions from the Department of Agriculture to the Federal Security Agency. Section 12 of that Plan further provided that the Administration and its functions should be administered under the direction and supervision of the Federal Security Administrator. Section 13 of the Plan provided that, except as otherwise provided therein, the functions of the head of any department relating to the administration of any agency or function transferred from his department by the Plan were transferred to, and should be exercised by, the head of the department or agency to which such agency or function was transferred. The administration of the original statutes from which Part I of this revision was derived was by their terms vested in the Secretary of Agriculture and apparently devolved upon the Food and Drug Administration by administrative action. Therefore, although these functions were transferred as functions of the Food and Drug Administration, it would appear from the terms of the Reorganization Plan that, from a statutory standpoint, they were formerly functions of the Secretary of Agriculture and became functions of the Federal Security Administrator.

1953 Reorganization Plan No. 1, §§ 5, 8, effective April 11, 1953, 18 F. R. 2053, 67 Stat. —, abolished the Federal Security Agency and the office of Federal Security Administrator, transferred the agencies and functions of the former to the Department of Health, Education, and Welfare (created by section 1 thereof), and transferred the functions of the Federal Security Administrator to the Secretary of such Department. That plan became effective April 11, 1953, under Joint Res. Apr. 1, 1953, ch. 14, 67 Stat. 18. Section 6 of such plan permits the Secretary of Health, Education, and Welfare to authorize any other officer, agency, or employee of the Department of Health, Education, and Welfare to perform any of the functions transferred to such Secretary. Section 7 of such plan authorizes the Secretary to establish central administrative services in the fields of procurement, budgeting, accounting, personnel, library, legal, and other services and activities common to the several agencies of the Department; and while such section permits the Secretary to effect such transfers within

the Department of the personnel employed, the property and records used or held, and the funds available for use in connection with such administrative-service activities as the Secretary deems necessary for the conduct of any services so established, it specifically prohibits the removal, thereunder, of any professional or substantive function vested by law in any officer from the jurisdiction of such officer.

Consideration was given to the question of whether the functions referred to above should by this revision be vested in the Food and Drug Administration and also whether the organization and functions of the Administration, as set out in 13 F. R. 6983, should be included in this revision. However it was decided that in view of the evident purpose of the original statutes and of the Reorganization Plans to vest these functions in the head of the department or agency concerned and to give such head wide discretion in their administration, these functions were, by this revision, vested in the Secretary of Health, Education, and Welfare, leaving their administration to be taken care of by regulations.

This section 2 of the revision is derived from the provision of section 12 of 1940 Reorganization Plan No. IV, cited above, that the Food and Drug Administration and its functions should be administered under the direction and supervision of the Federal Security Administrator (see 1941, 40 Op. Atty. Gen. 34), as affected by sections 5 and 6 of 1953 Reorganization Plan No. 1, also cited above, transferring all functions of the Federal Security Administrator to the Secretary of Health, Education, and Welfare (with permission to authorize other officers, employees of the Department of Health, Education, and Welfare to perform them), and transferring all agencies of the Federal Security Agency, together with their respective functions, personnel, etc., to the Department of Health, Education, and Welfare.

SECTION 3—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 42 (Mar. 2, 1897, ch. 358, § 2, 29 Stat. 605; May 31, 1920, ch. 217, 41 Stat. 712; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; July 12, 1943, ch. 221, 57 Stat. 500; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Section is from part of section 42 of title 21, U. S. C., 1952 ed. The provision of said section 42 that the Board of Tea Experts should prepare and submit standard samples of tea is incorporated in section 262 of this revised title.

Changes were made in phraseology.

SECTION 4—SECTION REVISED

Based on title 21 U. S. C., 1952 ed., § 47 (Mar. 2, 1897, ch. 358, § 6, 29 Stat. 606; May 31, 1920, ch. 217, 41 Stat. 712, 713; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2421, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Section is from only that part of section 47 of title 21 U. S. C., relating to the composition of the United States Board of Tea Appeals and the designation of its members. For remainder of such section 47, see Distribution Table.

Changes were made in phraseology.

CHAPTER 3—FOOD, DRUGS, AND COSMETICS

SUBCHAPTER I—DEFINITIONS, DETERMINATIONS, REPRESENTATIONS, AND
SHORT TITLE

Sec.

41. Definitions.
42. Determination of misbranding.
43. Representation as antiseptic.
44. Short title.

SUBCHAPTER II—FOOD

51. Definitions and standards for food; procedure governing establishment; objections; hearings; applicability of other provisions.
52. Adulterated food.
53. Misbranded food.
54. Exemptions.
55. Tolerances for poisonous ingredients; certification of coal-tar colors for foods.
56. Emergency permit control.
57. Sea food; examination on request of packer; fees.
58. Colored oleomargarine; congressional finding as to sale or serving.
59. Colored oleomargarine; sale in State where produced; packaging and labeling; service in restaurants.
60. Oleomargarine, butterine, imitation butter or cheese; application of State laws.
61. Exemption of meats and meat food products.

SUBCHAPTER III—DRUGS AND DEVICES

71. Adulterated drugs and devices.
72. Misbranded drugs and devices.
73. Exemptions.
74. Certification of coal-tar colors for drugs.
75. New drugs.
76. Certification of drugs containing insulin.
77. Certification of drugs containing certain antibiotics.

SUBCHAPTER IV—COSMETICS

91. Adulterated cosmetics.
92. Misbranded cosmetics.
93. Exemptions.
94. Certification of coal-tar colors for cosmetics.

SUBCHAPTER V—IMPORTS AND EXPORTS

111. Examination and refusal of imports.
112. Exports adulterated or misbranded.
113. Suspension of adulterated imports.

SUBCHAPTER VI—ADMINISTRATIVE PROVISIONS

131. Regulations; hearings; judicial review.
132. Examinations and investigations.
133. Records of interstate shipment.
134. Factory inspection; notice; reports; receipts for samples; copies of analyses.
135. Publicity.
136. Cost of certification of coal-tar colors.
137. Revision of Pharmacopeia; development of analysis and tests.

SUBCHAPTER VII—ENFORCEMENT AND PENALTIES

151. Prohibited acts.
152. Penalties; exemptions.
153. Injunctions.
154. Libel for condemnation.
155. Hearing before violation reported.
156. Report of minor violations.
157. Proceedings in name of United States; subpenas.

SUBCHAPTER I—DEFINITIONS, DETERMINATIONS,
REPRESENTATIONS, AND SHORT TITLE

SECTION 41—SECTION REVISED

Based on title 21 U. S. C., 1952 ed., §§ 6, 321, 321a, 321b, 321c (July 24, 1919, ch. 26, 41 Stat. 271; Mar. 4, 1923, ch. 268, 42 Stat. 1500; June 25, 1938, ch. 675, §§ 201, 52 Stat. 1041; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; Mar. 2, 1944, ch. 77, 58 Stat. 108; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Section consolidates sections 6, 321 (part), 321a, 321b, and 321c of title 21, U. S. C., 1952 ed. The definition of "butter" is from section 321a (formerly section 6), "nonfat dry milk solids" or "defatted milk solids" from section 321c, and "package" from section 321b. The remainder of this section is from section 321. The definitions have been rearranged in alphabetical order.

In paragraph (f), clause (1), the reference to "official compendium" was substituted for "official United States Pharmacopoeia, official Homoeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them", in view of the definition of official compendium in paragraph (m) of this section.

In definition of "new drug" words "the enactment of this chapter" were changed to "June 25, 1938", the date of enactment of the Federal Food, Drug, and Cosmetics Act (21 U. S. C., 1952 ed., § 301 et seq.).

The provision of subsection (l) of section 321 of title 21, U. S. C., 1952 ed., that the term "immediate container" does not include package liners, was omitted in view of the insertion of the words "other than a package liner" in paragraph (i) of this revised section, defining "Label".

Section 902 (a) of the Federal Food, Drug, and Cosmetic Act (June 25, 1938, ch. 675, § 902 (a), 52 Stat. 1059), which, in title 21, U. S. C., 1952 ed., was also shown as one of the sources of sections 321a and 321b of such title, provided that such sections, which were not a part of such act, should be applicable thereto.

Remainder of section 321 of title 21, U. S. C., 1952 ed., is incorporated in sections 42 and 43 of this title.

Other changes were made in phraseology.

SECTION 42—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 321 (June 25, 1938, ch. 675, § 201, 52 Stat. 1041; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Section constitutes, with changes in phraseology, subsection (n) of section 321 of title 21, U. S. C., 1952 ed.

Remainder of section 321 of title 21, U. S. C., 1952 ed., is incorporated in sections 41 and 43 of this title.

SECTION 43—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 321 (June 25, 1938, ch. 675, § 201, 52 Stat. 1041; 1940 Reorganization Plan No. IV, § 12, eff.

June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Section constitutes, with changes in phraseology, subsection (o) of section 321 of title 21, U. S. C., 1952 ed.

Remainder of section 321 of title 21, U. S. C., 1952 ed., is incorporated in sections 41 and 42 of this title.

SECTION 44—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 301 (June 25, 1938, ch. 675, § 1, 52 Stat. 1040).

The only change was the placing of the popular name within quotation marks.

SUBCHAPTER II—FOOD

SECTION 51—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 341 (June 25, 1938, ch. 675, § 401, 52 Stat. 1046; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632; Apr. 15, 1954, ch. 143, § 1, 68 Stat. 54).

Changes were made in arrangement and phraseology.

SECTION 52—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 342 (June 25, 1938, ch. 675, § 402, 52 Stat. 1046; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; Mar. 16, 1950, ch. 61, § 3 (d), 64 Stat. 21; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

References to other sections were changed to conform with the revised section numbers, "Provided, That" was omitted in subsections (c) and (d), and "the enactment of this chapter" was changed to "June 25, 1938" in subsection (c). Other changes in phraseology were made.

SECTION 53—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 343 (June 25, 1938, ch. 675, § 403, 52 Stat. 1047; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

"Provided, That" was omitted in subsections (e), (i), and (k).

Other changes in phraseology were made.

SECTION 54—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 345 (June 25, 1938, ch. 675, § 405, 52 Stat. 1049; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

The only change was the substitution of a reference to "this chapter" for "this Act".

SECTION 55—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 346 (June 25, 1938, ch. 675, §406, 52 Stat. 1049; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

First sentence of subsection (a) was divided into two sentences.

Changes in phraseology were made.

SECTION 56—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 344 (June 25, 1938, ch. 675, § 404, 52 Stat. 1048; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Subsections (a) and (c) were divided into two sentences each. In subsection (b), "may" was substituted for "is authorized to" and for "shall be privileged * * * to". Other changes in phraseology were made.

SECTION 57—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 14a, 372a (June 30, 1906, ch. 3915, § 10A, as added June 22, 1934, ch. 712, 48 Stat. 1204, and amended Aug. 27, 1935, ch. 739, 49 Stat. 871; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; renumbered § 702A of act June 25, 1938, ch. 675, 52 Stat. 1059 by act July 12, 1943, ch. 221, title II § 1, 57 Stat. 500; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

The penalty provisions of section 372a of 21 U. S. C., 1952 ed., concerning misuse of marks authorized by this section, are incorporated in section 151 (a) of this title. Former section 14a of said title had already been renumbered 372a.

Section 902 (a) of the Federal Food, Drug, and Cosmetic Act (June 25, 1938, ch. 675, § 902 (a), 52 Stat. 1059), which, in title 21, U. S. C., 1952 ed., was also shown as one of the sources of section 372a of such title, provided that section 372a, which originally was not a part of such Act, should remain in force and effect and be applicable to such Act. Such section 372a was later renumbered as section 702A of such Act by the Act of July 12, 1943, cited in the first paragraph of this note.

Changes were made in arrangement and phraseology.

SECTION 58—SECTION REVISED

Based on title 21 U. S. C., 1952 ed., § 347a (Mar. 16, 1950, ch. 61, § 3 (a), 64 Stat. 20).

A minor change was made in phraseology.

SECTION 59—SECTION REVISED

Based on title 21 U. S. C., 1952 ed., § 347 (Mar. 16, 1950, ch. 61, § 3 (c), 64 Stat. 20).

The definitions contained in items (1) and (2) of subsection (e) of this revised section were taken from subsection (f) of section 55 of Title 15 U. S. C., 1952 ed., Commerce and Trade (section 15 of the Federal Trade Commission Act), which also related to this section.

Such subsection (f) of section 55 of Title 15 remains in that title, but a separate section in the bill to enact this revised title amends it to omit the reference therein to section 347 of Title 21 (U. S. C., 1952 ed.), which now, as set out in this revised section, contains identical definitions.

Changes were made in phraseology.

SECTION 60—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 25, 347b (May 9, 1902, ch. 784, § 1, 32 Stat. 193; Mar. 16, 1950, ch. 61, § 6, 64 Stat. 22).

Section consolidates sections 25 and 347b of title 21 U. S. C., 1952 ed.

Sections 25 and 347b of Title 21 U. S. C., 1946 ed., were not a part of the Food, Drug, and Cosmetic Act of 1938, from which the remainder of this chapter, except sections 58 and 113 of this revised title, were derived.

Changes were made in phraseology.

SECTION 61—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 392 (June 25, 1938, ch. 675, § 902 (b), 52 Stat. 1059).

Changes were made in phraseology.

SUBCHAPTER III—DRUGS AND DEVICES

SECTION 71—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 351 (June 25, 1938, ch. 675, § 501, 52 Stat. 1049; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Changes were made in phraseology.

SECTION 72—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 352 (June 25, 1938, ch. 675, § 502, 52 Stat. 1050; June 23, 1939, ch. 242, § 3, 53 Stat. 854; 1940 Reorganization Plan No. IV, §§ 12, 13, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; Dec. 22, 1941, ch. 613, § 2, 55 Stat. 851; July 6, 1945, ch. 281, § 2, 59 Stat. 463; Mar. 10, 1947, ch. 16, § 2, 61 Stat. 11; July 13, 1949, ch. 305, § 1, 63 Stat. 409; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632; Aug. 5, 1953, ch. 334, § 1, 67 Stat. 389).

Provisos were changed to independent sentences. Other changes were made in phraseology.

SECTION 73—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 353 (June 25, 1938, ch. 675, § 503, 52 Stat. 1051; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; Oct. 26, 1951, ch. 578, § 1, 65 Stat. 648; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

References to section 352 of title 21, U. S. C., 1952 ed., were changed to section 72 of this revised title.

Changes were made in phraseology.

SECTION 74—SECTION UNCHANGED

Based on title 21, U. S. C., 1952 ed., § 354 (June 25, 1938, ch. 675, § 504, 52 Stat. 1052; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

SECTION 75—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 355 (June 25, 1938, ch. 675, § 505, 52 Stat. 1052; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Changes were made in phraseology.

SECTION 76—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 356 (June 25, 1938, ch. 675, § 506, as added Dec. 22, 1941, ch. 613, § 3, 55 Stat. 851; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Changes were made in phraseology.

SECTION 77—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 357 (June 25, 1938, ch. 675, § 507, as added July 6, 1945, ch. 281, § 3, 59 Stat. 463; amended Mar. 10, 1947, ch. 16, § 3, 61 Stat. 12; July 13, 1949, ch. 305, § 2, 63 Stat. 409; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632; Aug. 5, 1953, ch. 334, § 2, 67 Stat. 389).

Changes were made in phraseology.

SUBCHAPTER IV—COSMETICS

SECTION 91—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 361 (June 25, 1938, ch. 675, § 601, 52 Stat. 1054).

“Provided, That” was omitted in subsection (a) and “section 364” in subsection (e) was changed to the revised section number. Other changes were made in phraseology.

SECTION 92—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 362 (June 25, 1938, ch. 675, § 602, 52 Stat. 1054; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

“Provided, That” was omitted in subsection (b). Other changes were made in phraseology.

SECTION 93—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 363 (June 25, 1938, ch. 675, § 603, 52 Stat. 1054; 1940 Reorganization Plan No. IV, § 12, eff. June

30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

A change was made in phraseology.

SECTION 94—SECTION UNCHANGED

Based on title 21, U. S. C., 1952 ed., § 364 (June 25, 1938, ch. 675, § 604, 52 Stat. 1055; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

SUBCHAPTER V—IMPORTS AND EXPORTS

SECTION 111—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 381 (a), (b), (c) (June 25, 1938, ch. 675, § 801, 52 Stat. 1058; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; Oct. 18, 1949, ch. 696, 63 Stat. 882, 883; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Section is from subsections (a), (b), and (c) of section 381 of title 21, U. S. C., 1952 ed. Subsection (d) of said section constitutes section 112 of this title.

Changes were made in phraseology.

SECTION 112—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 381 (d) (June 25, 1938, ch. 675, § 801, 52 Stat. 1058; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Section is from subsection (d) of section 381 of title 21, U. S. C., 1952 ed. The remainder of said section constitutes section 111 of this revised title. Phrase "this subsection" was changed to "this section". Other changes were made in phraseology.

SECTION 113—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 18 (Aug. 30, 1890, ch. 839, § 4, 26 Stat. 415).

This section was not a part of the Food, Drug, and Cosmetic Act of 1938, from which the remainder of this chapter, except section 58 of this revised title, was derived.

Changes were made in phraseology.

SUBCHAPTER VI—ADMINISTRATIVE PROVISIONS

SECTION 131—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 371 (June 25, 1938, ch. 675, § 701, 52 Stat. 1055; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632; Apr. 15, 1954, ch. 143, § 2, 68 Stat. 55).

In subsection (f) (1), "United States Court of Appeals" was substituted for "Circuit Court of Appeals of the United States" in accordance with the change in name of that court by 28 U. S. C. § 43.

Changes were made in phraseology.

SECTION 132—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 372 (June 25, 1938, ch. 675, § 702, 52 Stat. 1056; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Changes were made in phraseology.

SECTION 133—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 373 (June 25, 1938, ch. 675, § 703, 52 Stat. 1057; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Changes were made in phraseology.

SECTION 134—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 374 (June 25, 1938, ch. 675, § 704, 52 Stat. 1057; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632; Aug. 7, 1953, ch. 350, § 1, 67 Stat. 476, 477).

Changes were made in phraseology.

SECTION 135—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 375 (June 25, 1938, ch. 675, § 705, 52 Stat. 1057; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Changes were made in phraseology.

SECTION 136—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 376 (June 25, 1938, ch. 675, § 706, 52 Stat. 1058).

Changes were made in phraseology.

SECTION 137—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 377 (July 12, 1943, ch. 221, title II, § 201, 57 Stat. 500; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Changes were made in phraseology.

SUBCHAPTER VII—ENFORCEMENT AND PENALTIES

SECTION 151—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 331, 372a (June 30, 1906, ch. 3915, § 10A, as added June 22, 1934, ch. 712, 48 Stat. 1204; Aug.

27, 1935, ch. 739, 49 Stat. 871; June 25, 1938, ch. 675, §§ 301, 702A, 52 Stat. 1042, 1043; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; Dec. 22, 1941, ch. 613, § 1, 55 Stat. 851; July 12, 1943, ch. 221, title II, § 1, 57 Stat. 500; July 6, 1945, ch. 281, § 1, 59 Stat. 463; Mar. 10, 1947, ch. 16, § 1, 61 Stat. 11; June 24, 1948, ch. 613, § 1, 62 Stat. 582; Mar. 16, 1950, ch. 61, § 3 (b), 64 Stat. 20; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632; Aug. 7, 1953, ch. 350, § 2, 67 Stat. 477).

Section consolidates section 331 of title 21, U. S. C., 1952 ed., with part of section 372a of such title.

References to other sections were changed to refer to the revised section numbers.

In paragraph (i) reference to section 57 of this revised title was inserted on authority of section 372a of title 21, U. S. C., 1952 ed. Said section 372a contained a penalty provision similar to paragraph (i) of this section applying to marks, stamps, etc., authorized under that section concerning seafood. That provision has thus been consolidated with paragraph (i). The penalty provided by said section 372a was imprisonment for not more than one year or a fine of not less than \$1,000 nor more than \$5,000, or both. As consolidated in this section, a violation of such provision will be subject to the penalties provided by section 152 of this revised title, namely, not more than one year or \$1,000 or both for first offense and not more than three years or \$10,000 or both for either a subsequent offense or a violation with intent to defraud or mislead. The effect of the revision is therefore to decrease the maximum fine for a first offense and to increase both fine and imprisonment maximums in the case of a subsequent offense or a violation with intent to defraud or mislead. This is justified by the great similarity between this offense and the other offenses under paragraph (i) of this section. The provisions of said paragraph (i) and the penalties therefor in section 152 of this revised title were enacted in 1938, while said section 372a was enacted in 1934 and incorporated by reference in the 1938 act. This revision therefore represents the most recent expression of Congressional intent on this subject and no reason appears why a distinction should be made in the penalties for misuse of the different types of marks, stamps, etc.

Section 902 (a) of the Federal Food, Drug, and Cosmetics Act (June 25, 1938, ch. 675, § 902 (a), 52 Stat. 1059), which, in title 21, U. S. C., 1952 ed., was also shown as one of the sources of section 372a of such title, provided that such section 372a, which originally was not a part of such Act, should remain in force and effect and be applicable to such Act. Such section 372a was later renumbered as section 702A of such Act by the Act of July 12, 1943, cited in the first paragraph of this note.

The remainder of section 372a of title 21, U. S. C., 1952 ed., constitutes section 57 of this revised title.

Changes were made in phraseology.

SECTION 152—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 333 (June 25, 1938, ch. 675, § 303, 52 Stat. 1043; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; Oct. 26, 1951, ch. 578,

§ 2, 65 Stat. 649; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Words "guilty of a misdemeanor" were omitted as surplusage. See section 1 of title 18 U. S. C., Crimes and Criminal Procedure, and Reviser's Note set out thereunder. Under that section, the offense of violating "any of the provisions of section 151 of this title" would automatically be a misdemeanor in view of the maximum punishment prescribed by this section.

Words "and shall on conviction thereof be subject to" (the punishment prescribed) were likewise omitted as surplusage. Punishment cannot be imposed without a conviction.

Other changes were made in phraseology.

SECTION 153—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 332 (June 25, 1938, ch. 675, § 302, 52 Stat. 1043).

In subsection (a), the reference to "section 381 (relating to notice to opposite party) of Title 28" was changed to a reference to Rule 65 (a) (b) of the Federal Rules of Civil Procedure, since such section 381 was repealed in the revision of title 28. Its provisions are now covered by that rule.

In subsection (b), reference to section 387 of title 28 was changed to section 402 of title 18 (U. S. C.), to which such section 387 was transferred in the revision of that title, enacted into law in 1948.

Other provisions of said former section 387 concerning the procedure for trial of criminal contempt cases are contained in Rule 42 of the Rules of Criminal Procedure for the United States District Courts.

Other changes were made in phraseology.

SECTION 154—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 334 (June 25, 1938, ch. 675, § 304, 52 Stat. 1044; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; June 24, 1948, ch. 613, § 2, 62 Stat. 582; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632; Aug. 7, 1953, ch. 350, § 3, 67 Stat. 477).

The provisions of section 334 of title 21, U. S. C., 1946 ed., have been rearranged in the interests of clarity.

Subsections (a) and (b) of this section are from the first provisions of subsections (a) and (b) of said section 334, respectively.

Subsection (c) is from the provisions of subsection (a) of said section limiting the number of libels in certain cases of misbranding and providing for the removal of such cases to more convenient districts for trial.

Subsection (d) is from the provision of subsection (b) of said section 334 providing for consolidation of multiple proceedings for trial.

Subsection (e) is from subsection (f) of said section 334. Reference to subsections "(a) or (b)" was changed to "(c) or (d)" to conform with the revised arrangement.

Subsections (f)-(h) are from subsections (c)-(e), respectively, or said section 334.

Other changes were made in phraseology.

SECTION 155—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 335 (June 25, 1938, ch. 675, § 305, 52 Stat. 1045; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Changes were made in phraseology.

SECTION 156—SECTION UNCHANGED

Based on title 21, U. S. C., 1952 ed., § 336 (June 25, 1938, ch. 675, § 306, 52 Stat. 1045; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

SECTION 157—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 337 (June 25, 1938, ch. 675, § 307, 52 Stat. 1046).

At beginning of second sentence "Notwithstanding the provisions of section 654 of title 28" was omitted since that section was repealed in the revision of title 28 and is now covered by Rule 45 of the Federal Rules of Civil Procedure and Rule 17 of the Rules of Criminal Procedure for the United States District Courts.

CHAPTER 5—MILK AND CREAM

SUBCHAPTER I—IMPORTATION OF MILK AND CREAM

Sec.

- 01. Definitions.
- 202. Permits for importation.
- 203. Unfitness for importation.
- 204. Inspection; issue of permits; regulations.
- 205. Penalties.
- 206. State powers concerning milk and cream.
- 207. Short title.

SUBCHAPTER II—FILLED MILK

- 221. Definitions.
- 222. Filled milk; Congressional finding concerning.
- 223. Regulations.
- 224. Penalties.
- 225. Short title.

SUBCHAPTER I—IMPORTATION OF MILK AND CREAM

SECTION 201—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 149 (Feb. 15, 1927, ch. 155, § 9, 44 Stat. 1103).

Changes were made in phraseology.

SECTION 202—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 141 (Feb. 15, 1927, ch. 155, § 1, 44 Stat. 1101; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Phrase "On or after May 16, 1927" was omitted as no longer necessary.

Changes were made in phraseology.

SECTION 203—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 142 (Feb. 15, 1927, ch. 155, § 2, 44 Stat. 1101).

In paragraph (e), "United States Department of Agriculture" was substituted for "Bureau of Dairy Industry of the United States Department of Agriculture", because, according to information received, the term "Bureau of Dairy Industry", with respect to this section, is obsolete in view of changes in functions within the Department of Agriculture.

Changes were made in phraseology.

SECTION 204—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 143 (Feb. 15, 1927, ch. 155, § 3, 44 Stat. 1102; 1940 Reorganization Plan No. IV, § 12, eff. June, 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Changes were made in phraseology.

SECTION 205—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 144, 145 (Feb. 15, 1927, ch. 155, §§ 4, 5, 44 Stat. 1103).

Subsections (a) and (b) are from sections 144 and 145, respectively, of title 21, U. S. C., 1946 ed.

Style of penalty provision was changed to conform with that adopted in the revision of title 18, U. S. C. Provision for a minimum fine of \$50 was omitted for the reason stated in Revision Note to section 511 of this revised title.

Other changes were made in phraseology.

SECTION 206—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 148 (Feb. 15, 1927, ch. 155; § 8, 44 Stat. 1103).

Changes were made in phraseology.

SECTION 207—NEW SECTION

Section is new, but merely confirms the popular name by which the provisions carried into this subchapter have been known.

SUBCHAPTER II—FILLED MILK

SECTION 221—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 61 (Mar. 4, 1923, ch. 262, § 1, 42 Stat. 1486).

Changes were made in phraseology.

SECTION 222—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 62 (Mar. 4, 1923, ch. 262, § 2, 42 Stat. 1487).

Section is from part of section 62 of title 21, U. S. C., 1946 ed. The remainder of that section is consolidated in section 224 of this title.

Changes were made in phraseology.

SECTION 223—SECTION REVISED

Based on Title 21 U. S. C., 1952 ed., § 64 (Mar. 4, 1923, ch. 262, § 4, as added Aug. 27, 1935, ch. 743, 49 Stat. 885; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237, 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Changes were made in phraseology.

SECTION 224—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 62, 63 (Mar. 4, 1923, ch. 262 §§ 2, 3, 42 Stat. 1487).

Section consolidates the provision of section 62 of title 21, U. S. C., 1946 ed., making the manufacture, shipment, or delivery for shipment of filled milk unlawful, with section 63 of that title.

The remainder of said section 62 is contained in section 222 of this title.

Words "upon conviction thereof" were omitted as unnecessary since punishment cannot be imposed without a conviction.

Other changes were made in phraseology.

SECTION 225—NEW SECTION

Section is new, but merely confirms the popular name by which the provisions carried into this subchapter have been known.

CHAPTER 7—TEA IMPORTATION

Sec.

- 261. Substandard tea importation; materials for manufacturing.
- 262. Standards; duplicate samples.
- 263. Importer's bonds and fees; sampling and examination.
- 264. Permit for delivery; inferior grades; partial delivery.
- 265. Examiners.
- 266. Examination according to usages of trade.
- 267. Re-examination by Appeals Board; disposition of tea.
- 268. Procedure for re-examination; assistance of experts.
- 269. Reimporting rejected teas; forfeitures.
- 270. Regulations.
- 271. Short title.

SECTION 261—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 41 (Mar. 2, 1897, ch. 358, § 1, 29 Stat. 604; May 16, 1908, ch. 170, 35 Stat. 163; May 31, 1920, ch. 217, 41 Stat. 712; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Changes were made in phraseology.

SECTION 262—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 42, 43 (Mar. 2, 1897, ch. 358, §§ 2, 3, 29 Stat. 604, 605; May 31, 1920, ch. 217, 41 Stat. 712; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

First sentence of this section is from section 42 of title 21, U. S. C., and the remainder of this section is from section 43 of said title. Other provisions of said section 42 are contained in section 3 of this title.

Changes were made in phraseology.

SECTION 263—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 44, 46a (Mar. 2, 1897, ch. 358, § 4, 29 Stat. 605; May 31, 1920, ch. 217, 41 Stat. 712; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; June 27, 1940, ch. 437, title I, 54 Stat. 632; July 1, 1941, ch. 269, title II, 55 Stat. 478; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Subsections (a) and (b) of this section are from sections 44 and 46a, respectively, of title 21, U. S. C., 1952 ed.

Changes were made in phraseology.

SECTION 264—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 45 (Mar. 2, 1897, ch. 358, § 5, 29 Stat. 605).

Changes were made in phraseology.

SECTION 265—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 46 (Mar. 2, 1897, ch. 358, § 7, 29 Stat. 606; May 31, 1920, ch. 217, 41 Stat. 712, 713).

Section is from first sentence of section 46 of title 21, U. S. C., 1952 ed. Other provisions of that section are in section 266 of this title.

Changes were made in phraseology.

SECTION 266—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 46 (Mar. 2, 1897, ch. 358, § 7, 29 Stat. 606; May 31, 1920, ch. 217, 41 Stat. 712, 713).

Section is from last sentence of section 46 of title 21, U. S. C., 1952 ed. Other provisions of that section are contained in section 265 of this title.

SECTION 267—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 47 (Mar. 2, 1897, ch. 358, § 6, 29 Stat. 606; May 31, 1920, ch. 217, 41 Stat. 712, 713; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Provision of section 47 of title 21, U. S. C., 1952 ed., for appointment of the United States Board of Tea Appeals is contained in section 4 of this title.

Changes were made in phraseology.

SECTION 268—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 48 (Mar. 2, 1897, ch. 358, § 8, 29 Stat. 606; May 31, 1920, ch. 217, 41 Stat. 712).

Changes were made in phraseology.

SECTION 269—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 49 (Mar. 2, 1897, ch. 358, § 9, 29 Stat. 606; May 31, 1920, ch. 217, 41 Stat. 712).

Words "an examiner" were substituted for "a customs examiner" to conform with present practice. According to information received, the examinations referred to in this chapter are made by officials of the Food and Drug Administration.

Reference to "sections 41-46 and 47-50 of this title" was changed to "this chapter". Other changes were made in phraseology.

SECTION 270—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 50 (Mar. 2, 1897, ch. 358, § 10, 29 Stat. 607; May 31, 1920, ch. 217, 41 Stat. 712; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Changes were made in phraseology.

SECTION 271—NEW SECTION

Section is new, but merely confirms the popular name by which the provisions carried into this chapter and sections 3 and 4 of this title have been known.

CHAPTER 9—CAUSTIC POISONS

Sec.

- 311. Definitions.
- 312. Misbranded shipments.
- 313. Misbranded imports.
- 314. Removal of labels.
- 315. Enforcement.
- 316. Libel for condemnation.
- 317. Penalties.
- 318. Institution of condemnation and criminal proceedings.
- 319. Construction; application of other provisions.
- 320. Short title.

SECTION 311—SECTION REVISED

Based on section 402 of title 15, U. S. C., 1952 ed., Commerce and Trade (Mar. 4, 1927, ch. 489, § 2, 44 Stat. 1406).

Section incorporates all of section 402 of title 15, U. S. C., 1952 ed., except subsection (d) thereof.

Words "The term" at the beginning of each subdivision were omitted as unnecessary.

A definition of person was inserted to harmonize with other sections of this title defining such term. See, also, section 1 of title 1, U. S. C., General Provisions.

Changes were made in phraseology.

Subsection (d) of 15 U. S. C., 1952 ed., § 402 is incorporated in section 319 of this title.

SECTION 312—SECTION REVISED

Based on section 403 of title 15, U. S. C., 1952 ed., Commerce and Trade (Mar. 4, 1927, ch. 489, § 3, 44 Stat. 1407).

Section was divided into subdivisions and paragraphs (a), (b), and (c) were renumbered paragraphs (1), (2), and (3). The phraseology of paragraph (3) was changed for greater clarity. Other changes were made in phraseology.

SECTION 313—SECTION REVISED

Based on section 405 of title 15, U. S. C., 1952 ed., Commerce and Trade (Mar. 4, 1927, ch. 489, § 5, 44 Stat. 1408; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

Changes were made in phraseology.

SECTION 314—SECTION REVISED

Based on section 406 of title 15, U. S. C., 1952 ed., Commerce and Trade (Mar. 4, 1927, ch. 489, § 6, 44 Stat. 1409).

Changes were made in phraseology.

SECTION 315—SECTION REVISED

Based on section 409 of title 15, U. S. C., 1952 ed., Commerce and Trade (Mar. 4, 1927, ch. 489, § 9, 44 Stat. 1409; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

In subsection (b), the term "United States district attorney" was changed to "United States attorney" to conform with title 28, U. S. C., Judiciary and Judicial Procedure, enacted into law in 1948. See section 501 et seq. of such title.

In subsection (c) (3), "Classification Act of 1949" was substituted for "sections 661-663, 664-669, 670-672, 673 and 674 of title 5" (Classification Act of 1923), inasmuch as such sections in title 5, U. S. C., Executive Departments and Government Officers and Employees, were repealed by the Classification Act of 1949 (Act Oct. 28, 1949, ch. 782, 63 Stat. 954; 5 U. S. C., § 1071 et seq.). See section 1106 of such Act (63 Stat. 972).

Other changes were made in phraseology.

SECTION 316—SECTION REVISED

Based on section 404 of title 15, U. S. C., 1952 ed., Commerce and Trade (Mar. 4, 1927, ch. 489, § 4, 44 Stat. 1408).

Changes were made in phraseology.

SECTION 317—SECTION REVISED

Based on section 407 of title 15, U. S. C., 1952 ed., Commerce and Trade (Mar. 4, 1927, ch. 489, § 7, 44 Stat. 1409).

Style of section was changed to conform partly with that adopted in the revision of title 18, U. S. C., Crimes and Criminal Procedure, which was enacted into law in 1948.

The penalty provided by section 407 of title 15, U. S. C., 1952 ed., from which this section is derived is a fine of not more than \$200 or imprisonment for not more than 90 days, or both. This seems clearly inadequate in comparison with the penalties for the misbranding of other products which are supervised by the Food and Drug Administration. The provisions of section 407 were adopted in 1927. Because the 1938 Food, Drug and Cosmetic Act is a later expression of Congressional opinion concerning the gravity of offenses involving the misbranding of products which may be dangerous to consumers, the penalties of that act have been adopted in the revised section, namely, maximum penalties of \$1,000 or one year or both, for the first offense and \$10,000 or three years or both for either a subsequent offense or a violation with intent to defraud or mislead.

SECTION 318—SECTION REVISED

Based on section 408 of title 15, U. S. C., 1952 ed., Commerce and Trade (Mar. 4, 1927, ch. 489, § 8, 44 Stat. 1409; 1940 Reorganization Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237; 1953 Reorganization Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632).

The term "United States attorney" was substituted for "United States district attorney" to conform with section 501 et seq. of title 28 U. S. C., Judiciary and Judicial Procedure, enacted into law in 1948.

Changes were made in phraseology.

SECTION 319—SECTION REVISED

Based on sections 402 and 411 of title 15, U. S. C., 1952 ed., Commerce and Trade (Mar. 4, 1927, ch. 489, §§ 2, 12, 44 Stat. 1406, 1410).

Subsection (a) is from subsection (d) of 15 U. S. C., 1946 ed., § 402. The remainder of that section is incorporated in section 311 of this title.

Subsection (b) is from 15 U. S. C., 1952 ed., § 411. In paragraph (1) "Chapter 3 of this title" was substituted for a reference to the Food and Drug Act of 1906. The act referred to in paragraph (3) constitutes sections 2-601 to 2-617 of the District of Columbia Code, 1951 ed.

Other changes were made in phraseology.

SECTION 320—SECTION REVISED

Based on section 401 of title 15, U. S. C., 1952 ed., Commerce and Trade (Mar. 4, 1927, ch. 489, § 1, 44 Stat. 1406).

The only change was the placing of the popular name within quotation marks.

PART II.—ANIMALS, POULTRY AND MEATS

Chapter	Sec.
51. Department of Agriculture.....	451
53. Meat inspection.....	491
55. Animal and poultry disease prevention; transportation, import, and export.....	551
57. Serums and analogous products.....	611

CHAPTER 51—DEPARTMENT OF AGRICULTURE

- Sec.
451. Administration of Part II; delegation of functions.

SECTION 451—NEW SECTION

This section has been inserted to make clear which agency is charged with the enforcement of this part, as distinguished from Parts I and III of this title. The language of the second sentence of this section was taken from 1947 Reorganization Plan No. I, § 301, 12 F. R. 4534, 61 Stat. 952, set out in note to section 391 of title 7, U. S. C., which transferred the functions of the Bureau of Animal Industry to the Secretary of Agriculture.

CHAPTER 53—MEAT INSPECTION

- Sec.
491. Definitions.
492. Ante-mortem inspections.
493. Post-mortem inspections.
494. Meat food products.
495. Canning or packing meats and products; labels.
496. Inspection of establishments.
497. Time of inspections.
498. Meat for export; inspection; clearance.
499. Inspector's certificates.
500. Inspection, stamps or marks.
501. Farmers and retail butchers and dealers, exemptions.
502. Inspectors; appointment, powers, and duties.
503. Regulations.
504. Cost of inspections.
505. Transportation of uninspected and unmarked articles.
506. Transportation or sale in violation of chapter.
507. Forgery or misuse of marks or certificates.
508. Penalties generally.
509. Penalty for sale or transportation of unfit products by exempted persons.
510. Bribery; acceptance of gifts.
511. Horse meat.
512. Dairy products for export.
513. Reindeer.

SECTION 491—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 91 (Mar. 4, 1907, ch. 2907, 34 Stat. 1265; June 29, 1938, ch. 810, 52 Stat. 1235).

The definition of "farmer" is from section 91 of title 21, U. S. C., 1952 ed.

The definitions of "retail butcher" and "retail dealer" are also from section 91 of title 21, U. S. C., 1952 ed. The provisions thereof are combined in this revised section because the defining language of the two terms was substantially identical. In the combined definition, words "partnership, association, or corporation", which followed "person", were omitted as covered by the definition of "person" in section 1 of title 1, U. S. C., General Provisions. That definition of

"person" relates to such term as used in any Act of Congress, and, in addition to partnerships, associations and corporations, includes "companies", "firms", "societies" and "joint stock companies". The extension of the term "person", as used in this revised section, to the latter group, is deemed advisable for the purpose of completeness.

In the definition of farmer, word "natural" was inserted before "person" for the purpose of clarity, and in view of rulings of the Department of Agriculture.

The other definitions are new, and were inserted to avoid repetition of the definitive terms throughout the other sections of this chapter.

The definition of "establishment" adopts the phrase used in all sections of title 21, U. S. C., 1952 ed., §§ 71-96, in which it appears, except that in section 71 the word "salting" is not used. However, it would seem that "similar establishment" would include a salting establishment in that section, and that its omission in that section and inclusion in the other sections does not affect the scope of those sections.

Changes were made in phraseology and arrangement.

Other provisions of section 91 of title 21, U. S. C., 1952 ed. are contained in sections 501 and 509 of this title.

SECTION 492—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 71 (Mar. 4, 1907, ch. 2907, 34 Stat. 1260).

Section was divided into sentences. Phrase "by inspectors appointed for that purpose" following "cause to be made" was omitted as unnecessary in view of section 503 of this title, providing for appointment of inspectors. References to cattle, sheep, swine, and goats, after the first such reference, were changed to "such animals." Phrase "all as provided by the rules and regulations to be prescribed by the Secretary of Agriculture" was changed to "under the Secretary's rules and regulations."

"Secretary of Agriculture" was changed to "Secretary" and "any slaughtering, packing, meat-canning, rendering, or similar establishment" was changed to "any establishment" because these terms are defined in section 491 of this title. The definition of "establishment" in that section includes also the word "salting" which does not appear in section 71 of title 21, U. S. C., 1952 ed. However, it would seem that a salting establishment would be a "similar establishment" under said section 71. See Revision Note to section 491 of this title.

Phrase "the meat and meat food products of which are to be used in interstate or foreign commerce" following "goats" was substituted for "and the meat and meat products thereof are to be used in interstate or foreign commerce" following "slaughtered" in first sentence for greater clarity. (See 28 Op. Atty. Gen. 369, 371 (1910).)

Other changes were made in phraseology.

SECTION 493—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 72, 73 (Mar. 4, 1907, ch. 2907, 34 Stat. 1260, 1261).

Section consolidates the provisions of sections 72 and 73 of title 21, U. S. C., 1952 ed. The last paragraph is from said section 73 and remainder of this section is from said section 72.

"Secretary of Agriculture" was changed to "Secretary" and "slaughtering, meat-canning, salting, packing, rendering, or similar establishment" to "establishment" because these terms are so defined in section 491 of this title.

In the first paragraph, "by inspectors appointed for that purpose" following "cause to be made" was omitted as unnecessary in view of section 502 of this title, providing for appointment of inspectors. In the last paragraph, "The foregoing provisions" was changed to "The provisions of this section."

Other changes were made in arrangement and phraseology.

SECTION 494—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 74 (Mar. 4, 1907, ch. 2907, 34 Stat. 1261).

Phrase "by inspectors appointed for that purpose" following "cause to be made" in first sentence was omitted as unnecessary in view of section 502 of this title, providing for appointment of inspectors.

"Secretary of Agriculture" was changed to "Secretary" and "slaughtering, meat-canning, salting, packing, rendering, or similar establishment" to "establishment" because these terms are so defined in section 491 of this title.

In the third paragraph, "by the establishment in the presence of an inspector" was substituted for "as hereinbefore provided."

Provision of section 74 of title 21, U. S. C., 1952 ed., concerning the inspector's access to the establishment at all times is consolidated in section 497 of this title.

Other changes were made in phraseology.

SECTION 495—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 75 (Mar. 4, 1907, ch. 2907, 34 Stat. 1262).

"Person, firm, or corporation" was changed to "person" because of the definition of "person" in title 1, U. S. C., General Provisions, § 1.

Other changes were made in phraseology.

SECTION 496—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 76 (Mar. 4, 1907, ch. 2907, 34 Stat. 1262).

Phrase "all slaughtering, meat-canning, salting, packing, rendering, or similar establishments" was changed to "all establishments defined in section 491 of this title".

Other changes were made in phraseology.

SECTION 497—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 74, 77 (Mar. 4, 1907, ch. 2907, 34 Stat. 1261, 1262).

Subsec. (a) is from section 77 of title 21, U. S. C., 1952 ed. Phrase "required by sections 492, 493, 494, and 495 of this title" was substituted for "of all cattle, sheep, swine, and goats, and the food products thereof, slaughtered and prepared in the establishments hereinbefore described for the purpose of interstate commerce".

Subsection (b) is from a provision of section 74 of said title. Although that section related to meat food products, it would seem that this provision would apply to all inspections and examinations under this chapter. Words "under this chapter" were inserted in text of this subsection.

Other changes were made in phraseology.

SECTION 498—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 83, 85 (Mar. 4, 1907, ch. 2907, 34 Stat. 1263).

Subsections (a) and (b) are from sections 83 and 85, respectively, of title 21, U. S. C., 1952 ed.

In subsection (a), "the meat of which, fresh, salted, . . . or otherwise prepared" was changed to "when the fresh, salted, . . . or otherwise prepared meat or meat food products of such animals".

In subsection (b) the phrase "being the meat of animals killed after the passage of this act, or except as hereinbefore provided" in the original act, which appears in title 21, U. S. C., 1952 ed., § 85, as "being the meat of animals killed except as hereinbefore provided", was omitted. It would seem that the "hereinbefore provided" referred to a proviso omitted from said title 21 which concerned meat on hand on October 1, 1906. As now set out in said section 85, this provision seems to exempt from this section the meat of animals killed under the preceding sections of the chapter and this does not appear to be the intent of the section.

In said subsection (b) "from an inspector appointed under the provisions of sections 71-93 of this title" was changed to "from an inspector" since inspector is defined in section 491 of this revised title. Phrase "the said cattle, sheep, swine, and goats" was changed to "the cattle, sheep, swine, and goats from which such meat or meat food product was obtained". In the provision concerning waiver, "said cattle, sheep, swine, and goats or meats are" was changed to "such meat or meat food product is" since this section relates only to the meat and meat food products covered by chapter.

Other changes were made in phraseology.

SECTION 499—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 81, 84, 86 (Mar. 4, 1907, ch. 2907, 34 Stat. 1263).

Text of this section is from section 86 of title 21, U. S. C., 1952 ed. Texts of sections 81 and 84 of this title, which provided for appointment of inspectors authorized to give certificates for the purposes of sections 80 and 83 of title 21, U. S. C., 1952 ed., were omitted as covered by this section and by section 502 of this revised title, providing for appointment of inspectors generally. Such section 80 is incorporated in section 565 of this title. Such section 83 is incorporated in section 498 of this title.

Words in second paragraph "the carcasses of cattle, sheep, swine, and goats, and the meat and meat food products thereof" were substituted for words in section 86 of title 21, U. S. C., 1952 ed., "the cattle, sheep, swine, and goats or their carcasses and products", since this chapter is not concerned with live animals for export. For provisions on that subject, see chapter 55 of this title.

Changes were made in phraseology.

SECTION 500—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 89 (Mar. 4, 1907, ch. 2907, 34 Stat. 1264).

Section is from part of section 89 of title 21, U. S. C., 1952 ed. Other provisions of said section 89, concerning appointment of inspectors and the Secretary's regulations, are contained in sections 502 and 503 of this revised title.

Words "as 'Inspected and passed' " were inserted to make clear the obvious intent of this provision, since a requirement that the inspectors refuse to mark articles which do not comply with this provision would conflict with other requirements of this chapter for use of the mark "Inspected and Condemned." Phrase "establishment hereinbefore mentioned" was changed to "establishment subject to this chapter."

Other changes were made in phraseology.

SECTION 501—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 91 (Mar. 4, 1907, ch. 2907, 34 Stat. 1265; June 29, 1938, ch. 810, 52 Stat. 1235).

Section is derived from part of section 91 of title 21, U. S. C., 1952 ed. Provisions of said section 91 defining farmer, retail butcher, and retail dealer, are incorporated in section 491 of this revised title and the penalty provision of said section is contained in section 509 of this revised title.

In subsection (b), "any slaughtering, meat-canning, salting, packing, rendering, or similar establishment" was changed to "any establishment" since "establishment" is so defined in section 491 of this revised title.

Other changes were made in phraseology.

SECTION 502—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 89 (Mar. 4, 1907, ch. 2907, 34 Stat. 1264).

Section is from part of section 89 of title 21, U. S. C., 1952, ed. Other provisions of said section 89, concerning the marking of inspected articles and the Secretary's regulations, are contained in sections 500 and 503 of this title.

Phrase "the examinations and inspections provided for under this chapter" was substituted for provisions specifying the various examinations and inspections.

Other changes were made in phraseology.

SECTION 503—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 89 (Mar. 4, 1907, ch. 2907, 34 Stat. 1264).

Section is from part of section 89 of title 21, U. S. C., 1952 ed. Other provisions of said section 89, concerning appointment of inspectors and the marking of inspected articles, are contained in sections 500 and 502 of this title.

Changes were made in phraseology.

SECTION 504—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 97–97d, 98 (July 30, 1947, ch. 356, title I, § 1, 61 Stat. 531, 532; June 5, 1948, ch. 423, 62 Stat. 344.)

Text of section is based on section 98 of title 21, U. S. C., 1952 ed. Phrase “on and after July 1, 1948” was omitted and “laws relating to Federal inspection of meat and meat food products” was changed to “this chapter.”

Sections 97, 97a, 97b, 97c, and 97d of title 21, U. S. C., 1952 ed., made provisions for the payment of the cost of meat inspection service by the establishments subject to inspection, beginning on July 1, 1947. These provisions were superseded, effective July 1, 1948, by section 98 of said title which constitutes this section. The meat inspection fund set up by said section 97 was carried into the general fund of the Treasury by act June 19, 1948, ch. 543, 62 Stat. 507.

Changes were made in phraseology.

SECTION 505—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 78 (Mar. 4, 1907, ch. 2907, 34 Stat. 1262).

At beginning of this section, “firm or corporation” following “person” was omitted as included in “person” as defined in section 1 of title 1, U. S. C., General Provisions.

Other changes were made in phraseology.

SECTION 506—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 87 (Mar. 4, 1907, ch. 2907, 34 Stat. 1264).

Phrase “sections 71–93 of this title” was changed to “this chapter”.

References to “firm or corporation” following “person” were omitted as included in “person” as defined in section 1 of title 1, U. S. C., General Provisions.

SECTION 507—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 79 (Mar. 4, 1907, ch. 2907, 34 Stat. 1263).

References to “sections 71–93 of this title” were changed to “this chapter”. At beginning of section “firm or corporation, or officer, agent, or employee thereof” following “person” was omitted. A firm, or corporation is a “person” as defined in section 1 of title 1, U. S. C., General Provisions. Reference to “officer, agent, or employee

thereof" is unnecessary because of section 2 of title 18, U. S. C., Crimes and Criminal Procedure, which provides that whoever aids, abets, counsels, commands, induces, or procures the commission of an offense against the United States, or causes an act to be done which if directly performed by him would be such an offense, is a principal and punishable as such. See, also, *United States v. Dotterweich*, 1943, 64 S. Ct. 134, 320 U. S. 277, 88 L. Ed. 48, rehearing denied 64 S. Ct. 367, 320 U. S. 815, 88 L. Ed. 492, holding that "person" as used in the provision of the Food, Drug, and Cosmetic Act of 1938 from which section 152 of this revised title is derived, included an officer of a corporation.

SECTION 508—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 88 (Mar. 4, 1907, ch. 2907, 34 Stat. 1264).

Section was changed to conform to the style adopted in the revision of title 18, U. S. C., Crimes and Criminal Procedure, and to omit surplusage.

Word "whoever" was substituted for "Any person, firm, or corporation, or any officer or agent of any such person, firm, or corporation, who" in view of the definition of "whoever" in section 1 of title 1, U. S. C., General Provisions, and for the reasons stated in Revision Note to section 507 of this revised title.

Section 88 of title 21, U. S. C., 1952 ed., designated offenses thereunder as a "misdemeanor", and, as punishment, prescribed maximum fine of \$10,000, and maximum term of imprisonment of two years, whereas, under section 1 of title 18, U. S. C., Crimes and Criminal Procedure, it is provided that, notwithstanding any act of Congress to the contrary, any offense punishable by imprisonment for a term exceeding one year is a felony. In this revised section, the maximum term of imprisonment was reduced to one year, not necessarily to conform with the definition of misdemeanor in such section 1 of title 18, U. S. C., but because this would seem to be more nearly commensurate with the gravity of any offense for which this section prescribes the penalties. However, as revised, the reference to "misdemeanor" is omitted, for this is covered by such section 1 of title 18, U. S. C.

Words "Except as provided in sections 509 and 510 of this title" were inserted at beginning because of the specific penalties provided by those sections for violations thereof.

Section 88 of title 21, U. S. C., 1952 ed., also related to violations of section 80 and 82 of that title, the provisions of which are incorporated in section 565 (d) (c) of this title. Therefore, the provisions of such section 88 have also been carried into section 573 (d) of this title, where they provide penalties for violation of such section 565 (d) (e).

Other changes were made in phraseology.

SECTION 509—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 91, 92 (Mar. 4, 1907, ch. 2907, 34 Stat. 1265; June 29, 1938, ch. 810, 52 Stat. 1235).

Section is from part of section 91 of title 21, U. S. C., 1952 ed., formerly set out as section 92 of said title. The remainder of said section 91 is contained in sections 491 and 501 of this revised title.

Phrase "being a farmer, retail butcher, or retail dealer acting

under the exemptions provided in section 502 of this title" was inserted. Section 91 of title 21, U. S. C., 1952 ed., refers to "any person" without this limitation, but the courts have held that it applies only to those whose products are exempted from inspection under that section. See *Kierstein v. Cudahy Packing Co.*, C. C. A. Pa. 1935, 80 F. 2d 518; *U. S. v. Northwestern Fisheries Co.*, D. C. Wash. 1915, 224 F. 274; *U. S. v. Rohe*, D. C. N. Y. 1914, 218 F. 182.

Section was changed to conform to the style adopted in the revision of title 18, U. S. C., Crimes and Criminal Procedure. Among other changes, "shall be guilty of a misdemeanor" was omitted because misdemeanor is defined in section 1 of title 18, U. S. C., and "on conviction thereof" was omitted as surplusage.

SECTION 510—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 90 (Mar. 4, 1907, ch. 2907, 34 Stat. 1264).

This section was changed to conform to the style adopted in the revision of title 18, U. S. C., Crimes and Criminal Procedure.

"Whoever" in subsection (a) was substituted for "Any person, firm, or corporation, or any agent or employee of any person, firm, or corporation, who" in view of the definition of "whoever" in section 1 of title 1, U. S. C., and for the reasons stated in Revision Note to section 507 of this revised title.

Also, reference to "firm, or corporation, or officers, agents, or employees thereof," which followed "person," in one place in section 90 of title 21, U. S. C., 1952 ed., and reference to "firm, or corporation" which followed "person," in another place in such section, were omitted from subsection (b) as unnecessary and covered by definition of "person" in section 1 of title 1, U. S. C., General Provisions. See, also, Revision Note to section 507 of this title.

In both subsections (a) and (b) "shall be deemed guilty of a felony" was omitted as unnecessary because "felony" is defined in section 1 of title 18, U. S. C. "Upon conviction thereof" was omitted as superfluous since punishment can only be imposed after conviction. Provisions for minimum punishment of \$5,000 and one year in subsection (a) and \$1,000 and one year in subsection (b) were omitted to conform with revised title 18, U. S. C. See statement in Reviser's Note to 18 U. S. C. § 203 that "minimum punishment provisions were omitted because of the court's power, under section 3651 of this title, to suspend sentence whenever the crime or offense is not punishable by death or life imprisonment, and, also, to conform with policy adopted by the codifiers of the 1909 Criminal Code. (See S. Rept. 10, pt. 1, pp. 12, 13, 14, 60th Cong., 1st sess., to accompany S. 2982.)"

The mandatory provisions for both fine and imprisonment were changed to fine or imprisonment, or both, because the court now has this discretion by making use of its power to suspend sentence under section 3651 of title 18, U. S. C.

Other changes were made in phraseology.

SECTION 511—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 96 (July 24, 1919, ch. 26, 41 Stat. 241).

In subsection (a), "firm, or corporation or officer, agent, or employee thereof" following "person," was omitted, and in subsection (b), reference to "firms, corporations and officers, agents and employees thereof" which followed "persons," was omitted, for the reasons stated in Revision Note to section 507 of this revised title.

Other changes were made in phraseology.

SECTION 512—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 94a, 132 (May 23, 1908, ch 192, 35 Stat. 254).

Section is from section 94a of title 21, U. S. C., 1946 ed., which was formerly set out as section 132 of that title.

Changes were made in phraseology.

SECTION 513—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 94 (June 30, 1914, ch. 131, 38 Stat. 420).

Phrase "sections 71-93 of this title" was changed to "this chapter".

CHAPTER 55—ANIMAL AND POULTRY DISEASE PREVENTION; TRANSPORTATION, IMPORT, AND EXPORT OF ANIMALS

Sec.

- 551. Measures and regulations to prevent introduction or spread of disease.
- 552. Control of diseases; cooperation with States.
- 553. Research laboratories for foot-and-mouth and other diseases.
- 554. Appointment of agents to make recommendations.
- 555. Cooperation with Mexico; foot-and-mouth disease and rinderpest; reports to Congress.
- 556. Cattle grubs, research and eradication.
- 557. International boundary fences.
- 558. Regulation of transportation and exportation generally.
- 559. Quarantine of infested areas.
- 560. Regulations for transportation from quarantined areas.
- 561. Transportation from quarantined areas prohibited; exceptions.
- 562. Transportation of diseased livestock or poultry prohibited.
- 563. Cattle reacting to tuberculin test, transportation of.
- 564. Domestic animals reacting to test for paratuberculosis or brucellosis.
- 565. Regulation and promotion of exports.
- 566. Suspension of importation.
- 567. Importation of diseased or exposed animals and poultry prohibited.
- 568. Importation prohibited except at quarantine stations.
- 569. Quarantine of imported animals and poultry.
- 570. Inspection and disposition of imported animals and poultry.
- 571. Disease control in District of Columbia.
- 572. Inspection by Department as precluding other inspections and fees.
- 573. Penalties.
- 574. Prosecution of violations; venue.

NOTE

Wherever, in the sections of title 21, U. S. C., 1952 ed., from which the revised sections in this chapter were derived, the term "live poultry" was used, such term, in these revised sections, was changed to "poultry". Unless the term "poultry" is qualified as in the case of "dressed poultry" or "drawn poultry", it is presumed to mean "live poultry". In the case of any outbreak of disease which might be disseminated by poultry other than live birds, the broad provisions of section 551 of this title would apply.

SECTION 551—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 111 (Feb. 2, 1903, ch. 349, § 2, 32 Stat. 792; Feb. 7, 1928, ch. 30, 45 Stat. 59).

A reference to “contagious” and “infectious” diseases was omitted as covered by the general term “communicable disease”.

Changes were made in phraseology.

SECTION 552—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 114, 114a (May 29, 1884, ch. 60, § 3, 23 Stat. 32; May 29, 1884, ch. 60, § 11, as added Sept. 21, 1944, ch. 412, title I, § 101 (a), 58 Stat. 734; Feb. 7, 1928, ch. 30, 45 Stat. 59; Oct. 30, 1951, ch. 637, § 1, 65 Stat. 693; Aug. 8, 1953, ch. 381, 67 Stat. 493, 494.)

Subsections (a) and (b) are from sections 114 and 114a, respectively, of title 21, U. S. C., 1952 ed.

In subsection (a) “control and eradication” was substituted for “suppression and extirpation” to correspond with the more recent acts which use the former term. Phrase “of domestic animals and poultry” was added to first sentence because that was the scope of the 1884 act as amended by the 1928 act. References to “sections 111–114, 115, 117–119, and 130 of this title” and to “said sections” were changed to “this chapter”, in order to allow the Secretary to obtain State cooperation in the enforcement of all the provisions of this chapter. This would seem to be the intent of the present law.

References to foot-and-mouth disease, rinderpest, contagious pleuropneumonia, pleuropneumonia, and “contagious” and “infectious” diseases were omitted as covered by the general term “communicable diseases”.

Other changes were made in phraseology.

SECTION 553—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 113a (May 29, 1884, ch. 60, § 12, as added Apr. 24, 1948, ch. 229, 62 Stat. 198).

References to poultry were inserted to make it clear that this section also applies to this class of livestock.

In last paragraph, “Classification Act of 1949” was substituted for “Classification Act” for the purpose of clarity, the Classification Act of 1923 having been repealed by the Classification Act of 1949 (Act Oct. 28, 1949, ch. 782, 63 Stat. 954; 5 U. S. C. § 1071 et seq.). See section 1106 of such Act (63 Stat. 972).

Changes were made in phraseology.

SECTION 554—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 119 (May 29, 1884, ch. 60, § 2, 23 Stat. 31; Feb. 9, 1889, ch. 122, § 1, 25 Stat. 659; July 14, 1890, ch. 707, 26 Stat. 288; Feb. 7, 1928, ch. 30, 45 Stat. 59).

A reference to poultry was inserted in one place for the purpose of clarity, and a reference to “contagious” and “infectious” diseases was omitted as covered by the general term “communicable diseases”.

Words “suppression and extirpation” were changed to “control and eradication” to correspond with the more recent acts which use

the latter phrase. Reference to "sections 111-114, 115, 117, and 118 of this title" was changed to "this section," since this is the only section referring to the duties of such agents.

Other changes were made in phraseology.

SECTION 555—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 114b, 114c, 114d (Feb. 28, 1947, ch. 8, §§ 1-3, 61 Stat. 7, 8).

Subsections (a), (b), and (c) are from sections 114b, 114c, and 114d, respectively, of title 21, U. S. C., 1952 ed.

Words in section 114c of title 21, U. S. C., 1952 ed., "personal services in the District of Columbia and elsewhere without regard to the limitations contained in section 947 (g) of Title 5, including" were omitted from clause (3) of subsection (b) of this section to conform with act Sept. 23, 1950, ch. 1010, § 7 (b), 64 Stat. 986. That Act repealed those provisions of section 46 of title 5, U. S. C., Executive Departments and Government Officers and Employees, which prohibited employment of personal services in the District of Columbia unless specifically authorized in the appropriation concerned. Further, section 947 of such title 5, of which subsection (g) was referred to in such omitted provision, was repealed by act Sept. 12, 1950, ch. 946, Title III, § 301 (85), 64 Stat. 843.

In subsection (c), "Thirty days after February 28, 1947, and every thirty days thereafter" was changed to "on the last day of each month", for the purpose of clarity.

Other changes were made in phraseology.

SECTION 556—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 114e, 114f (June 16, 1948, ch. 477, 62 Stat. 458).

Section consolidates sections 114e and 114f of title 21, U. S. C., 1952 ed. Provision of said section 114f authorizing appropriations was omitted as unnecessary because of the section in the act enacting this revised title which authorizes appropriations.

Changes were made in phraseology.

SECTION 557—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 131 (May 26, 1910, ch. 256, 36 Stat. 440).

The only change was the insertion of a reference to poultry. This will make the section uniform with a number of other sections in this chapter, and such change would seem to be in the public interest.

SECTION 558—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 120 (May 29, 1884, ch. 60, §§ 4, 5, 23 Stat. 32; Feb. 2, 1903, ch. 349, § 1, 32 Stat. 791; Feb. 7, 1928, ch. 30, 45 Stat. 59).

Phrase "suppress and extirpate" was changed to "control and eradicate" to correspond with more recent acts which use the latter phrase.

References to contagious pleuropneumonia, foot-and-mouth disease, and "contagious" and "infectious" diseases were omitted as covered by the general term "communicable diseases."

Other changes were made in phraseology.

SECTION 559—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 123 (Mar. 3, 1905, ch. 1496, § 1, 33 Stat. 1264; Feb. 7, 1928, ch. 30, 45 Stat. 59).

A reference to a "contagious" and "infectious" disease was omitted as covered by the general term "communicable disease".

Changes were made in phraseology.

SECTION 560—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 125 (Mar. 3, 1905, ch. 1496, § 3, 33 Stat. 1265; Feb. 7, 1928, ch. 30, 45 Stat. 59).

"It shall be the duty of the Secretary of Agriculture, and he is authorized and directed" was changed to "The Secretary of Agriculture shall." Requirement for notice in the manner provided in section 124 of title 21, U. S. C., 1952 ed., was changed to refer to the revised section derived from section 123 of that title, since the reference to said section 124 is obviously erroneous.

Other changes were made in phraseology.

SECTION 561—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 124, 126, 128 (Mar. 3, 1905, ch. 1496, §§ 2, 4, 33 Stat. 1264, 1265; June 30, 1914, ch. 131, 38 Stat. 419; Feb. 7, 1928, ch. 30, 45 Stat. 59).

Section consolidates sections 124, 126 and 128 of title 21, U. S. C., 1946 ed.

Subsection (a) of this revised section, which was derived from sections 124 and 126 of title 21, U. S. C., 1952 ed., has been rearranged and rewritten for greater clarity and brevity. References to "company or corporation" following "person" were omitted as unnecessary in view of the definition of person in section 1 of title 1, U. S. C., General Provisions.

A reference in section 128 of title 21, U. S. C., 1952 ed., to section 118 of title 18 was omitted from subsection (b) of this revised section as unnecessary. Section 111 of revised title 18 which was derived from such former section 118 (repealed in 1948) is broad enough to cover the carriers to which this subsection applies.

Other changes were made in phraseology.

SECTION 562—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 115 (May 29, 1884, ch. 60, § 6, 23 Stat. 32; June 28, 1926, ch. 700, § 1, 44 Stat. 774; Feb. 7, 1928, ch. 30, 45 Stat. 59).

Phrase "steam or sailing or other" preceding "vessel or boat" was omitted as unnecessary. References to "company, or corporation" following "any person" were omitted since they are included in the definition of "person" in section 1 of title 1, U. S. C., General Provisions.

References to "contagious" and "infectious" diseases, and the phrase "and especially the disease known as pleuropneumonia", were all omitted as covered by the general term "communicable disease". Other changes were made in phraseology.

SECTION 563—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 116 (May 31, 1920, ch. 217, 41 Stat. 699).

Changes were made in phraseology.

SECTION 564—SECTION UNCHANGED

Based on title 21, U. S. C., 1952 ed., § 114a-1 (May 29, 1884, ch. 60, § 13, as added Oct. 31, 1951, ch. 637, § 2, 65 Stat. 693, 694).

SECTION 565—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 80, 82, 105, 112, 113 (May 29, 1884, ch. 60, §§ 4, 5, 23 Stat. 32; Aug. 30, 1890, ch. 839, § 10, 26 Stat. 417; Feb. 2, 1903, ch. 349, § 1, 32 Stat. 791; Mar. 4, 1907, ch. 2907, 34 Stat. 1263; Feb. 7, 1928, ch. 30, 45 Stat. 59).

Subsections (a), (b), and (c) are from sections 113, 112, and 105, respectively, of title 21, U. S. C., 1952 ed. Other provisions of said section 105 are contained in section 570 of this title.

The references in sections 112 and 113 of title 21 U. S. C., 1952 ed., to pleuropneumonia, and to any "contagious" and "infectious" diseases were omitted from this revised section as covered by the general term "communicable disease".

In subsection (b), reference to "dividing lines" between the United States and foreign countries was changed to "borders".

In subsection (c), references to poultry were inserted to make such subsection uniform with the other subsections of this section, and with other sections in this chapter, and because this would seem to be in the public interest.

Subsections (d) and (e) are based on sections 80 and 82, respectively, of title 21, U. S. C., 1952 ed.

Changes were made in phraseology.

SECTION 566—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 101 (Aug. 30, 1890, ch. 839, § 9, 26 Stat. 416).

References to poultry were inserted to make it clear that this class of live stock is included within the scope of the section.

Words "communicable diseases" were substituted for "infectious or contagious diseases" to make the section uniform with other sections in this chapter. This does not change the substance or scope of the section.

Changes were made in phraseology.

SECTION 567—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 104 (Aug. 30, 1890, ch. 839, § 6, 26 Stat. 416; June 28, 1926, ch. 700, § 2, 44 Stat. 775; Feb. 28, 1931, ch. 348, 46 Stat. 1460).

Section is from part of section 104 of title 21, U. S. C., 1952 ed. The remainder of that section, providing penalties, is contained in section 573 of this title.

A reference to poultry was inserted to make the section uniform with other sections in this chapter, and because it would seem to be in the public interest.

Changes were made in phraseology.

SECTION 568—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 103 (Aug. 30, 1890, ch. 839, § 8, 26 Stat. 416).

Section is from the first and last sentences of section 103 of title 21, U. S. C., 1952 ed. The remainder of such section is contained in section 570 of this title.

Phrase “all animals described in sections 101–105 of this title” in first sentence was changed to specify the animals to which it applies.

References to poultry were inserted to make the section uniform with other sections in this chapter, and because it would seem to be in the public interest.

Other changes were made in phraseology.

SECTION 569—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 102 (Aug. 30, 1890, ch. 839, § 7, 26 Stat. 416).

At beginning of second sentence “For this purpose he may have and maintain possession of all lands, buildings, animals, tools, fixtures, and appurtenances in use on August 3, 1890, for the quarantine of neat cattle, and purchase, construct, or rent as may be necessary” was changed to read as set out in text of this section in order to omit executed provisions.

References to poultry were inserted to make the section uniform with other sections in this chapter, and because it would seem to be in the public interest.

Word “neat” which preceded “cattle” was omitted as an obsolete term. The term “neat cattle” was used when various provisions set out in this chapter were originally enacted in 1890. The term “cattle” is broader, and, in later enactments also carried into this chapter, Congress did not modify such term with the word “neat”. According to information received from the Department of Agriculture, it is advisable to eliminate the latter word as inapplicable to present conditions.

Other changes were made in phraseology.

SECTION 570—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 103, 105 (Aug. 30, 1890, ch. 839, §§ 8, 10, 26 Stat. 416, 417).

Subsections (a) and (b) are from sections 105 and 103, respectively, of title 21, U. S. C., 1952 ed. The remainder of said section 103, prohibiting importation except at quarantine ports, is contained in section 568 of this title. The other provisions of said section 105, concerning inspection of animals for export, are incorporated in section 565 of this title.

In subsection (a) "animals described in sections 101-104 of this title" was changed to "cattle, sheep, other ruminants, swine, and poultry", and words "by a suitable officer" following "inspection to be made" were omitted as unnecessary.

In subsection (a), after "Bureau of Animal Industry" the following words were inserted: "or for the use of such other bureau or agency or of any officer, of the Department of Agriculture, to which or to whom the Secretary may delegate the functions heretofore or hereafter exercised by him through the Bureau of Animal Industry". This insertion was made because of 1947 Reorganization Plan No. 1, § 301, effective July 1, 1947, 12 F. R. 4534, 61 Stat. 952, which transferred the functions of the Bureau of Animal Industry to the Secretary of Agriculture, and provided that such functions should be performed by him or, subject to his direction and control, by such officers and agencies of the Department of Agriculture as he might designate.

The reference to poultry were inserted to make the section uniform with other sections in this chapter, and because it would seem to be in the public interest.

Word "communicable" was substituted for "contagious" in two places to make section uniform with other sections in this chapter.

In subsection (b) "animals named in said sections" was changed to "animals and poultry named in subsection (a) of this section".

Other changes were made in phraseology.

SECTION 571—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 130 (May 29, 1884, ch. 60, § 8, 23 Stat. 33; Feb. 7, 1928, ch. 30, 45 Stat. 59).

References to any "contagious" or "infectious" disease were omitted as covered by the general term "communicable disease".

Phrase "and especially the disease known as pleuropneumonia" was likewise omitted as covered by "communicable disease".

Other changes were made in phraseology.

SECTION 572—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 121 (Feb. 2, 1903, ch. 349, § 1, 32 Stat. 791; Feb. 7, 1928, ch. 30, 45 Stat. 59).

In first sentence, "the Secretary of Agriculture, or any inspector or assistant inspector of the Department of Agriculture designated by the Secretary for such purpose" was substituted for "any inspector or assistant inspector of the Bureau of Animal Industry"; and, in second sentence, "Secretary of Agriculture" was substituted for "Bureau of Animal Industry". These changes were made in view of 1947 Reorganization Plan No. 1, § 301, effective July 1, 1947, 12 F. R. 4534, 61 Stat. 952. See Revision Note to section 570 of this title.

Phrase "and into and through" preceding "the District of Columbia" was changed to "or". In last sentence "and poultry" was inserted.

References to Texas or splenic fever infections, pleuropneumonia, foot-and-mouth disease, and any "infectious" or "contagious" disease, were omitted as covered by the general term "any communicable disease".

Other changes were made in phraseology.

SECTION 573—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 88, 104, 117, 122, 127 (May 29, 1884, ch. 60, § 7, 23 Stat. 32; Aug. 30, 1890, ch. 839, § 6, 26 Stat. 416; Feb. 2, 1903, ch. 349, § 3, 32 Stat. 792; Mar. 3, 1905, ch. 1496, § 6, 33 Stat. 1265; Mar. 4, 1907, ch. 2907, 34 Stat. 1264; June 28, 1926, ch. 700, § 2, 44 Stat. 775; Feb. 7, 1928, ch. 30, 45 Stat. 59; Feb. 28, 1931, ch. 348, 46 Stat. 1460).

Subsections (a), (b), (c), and (e) are from sections 122, 127, 117, and 104, respectively, of title 21, U. S. C., 1952 ed. Other provisions of said section 104 are contained in section 567 of this title.

The style of these provisions has been changed to conform with that adopted in the revision of title 18, U. S. C., Crimes and Criminal Procedure. "Whoever" was substituted for phrases such as "any person, company, or corporation" in view of the definition of "Whoever" in section 1 of title 1, U. S. C., General Provisions.

Phrases in sections 104, 117, 122 and 127 of title 21 U. S. C., 1952 ed., such as "on conviction shall be punished" were omitted as unnecessary since punishment can only follow conviction. Words in such sections "shall be guilty of a misdemeanor" were omitted because misdemeanors are defined in section 1 of title 18, U. S. C. Under that section the offense defined in subsection (e) is a felony. Provisions for fines of not less than \$100 in subsections (a), (b), and (c) were omitted for the reasons stated in Revision Note to section 510 of this revised title.

Subsection (d) is from section 88 of title 21, U. S. C., 1952 ed. That section also related to penalties for violating provisions carried into chapter 53 of this title, and therefore is also set out as section 508 of this title. See Revision Note to such section 508 for explanation of changes made therein, most of such changes having also been made in subsection (d) of this section.

Other changes were made in phraseology.

SECTION 574—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 118 (May 29, 1884, ch. 60, § 9, 23 Stat. 33; Feb. 7, 1928, ch. 30, 45 Stat. 59).

This section was expanded to include all violations of this chapter by substituting "this chapter" for "sections 112-114, 115, 117-119, and 130 of this title".

The term "United States district attorneys" was changed to "United States attorneys" to conform with title 28, U. S. C., Judiciary and Judicial Procedure, enacted into law in 1948. See section 501 et seq. of such title.

Other changes were made in phraseology.

CHAPTER 57—SERUMS AND ANALOGOUS PRODUCTS

Sec.

- 611. Preparation and sale of serum, etc.
- 612. Licensing and inspection of establishments.
- 613. Regulations for preparation and sale.
- 614. Importation regulated and prohibited.
- 615. Permits for and inspection of imports.
- 616. Revocation or suspension of licenses or permits.
- 617. Penalties.

SECTION 611—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 151 (Mar. 4, 1913, ch. 145, 37 Stat. 832).

Words "firm or corporation" were omitted as covered by "person" under the definition of that term in section 1 of title 1, U. S. C., General Provisions.

Other changes were made in arrangement and phraseology.

SECTION 612—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 154, 156, 157 (Mar. 4, 1913, ch. 145, 37 Stat. 832, 833).

Subsection (a) is from part of section 154 of title 21, U. S. C., 1952 ed. Subsection (b) consolidates section 157 with part of section 156 of said title. The remainder of said sections 154 and 156 constitute sections 613 and 616, respectively, of this revised title.

In subsection (b) references to establishments where viruses, serums, toxins, or analogous products are prepared for sale, barter, exchange, or shipment as aforesaid were omitted as covered by references to establishments licensed under this chapter.

Other changes were made in phraseology.

SECTION 613—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 154 (Mar. 4, 1913, ch. 145, 37 Stat. 832).

Section is from part of section 154 of title 21 U. S. C., 1952 ed. The remainder of said section is consolidated in section 612 of this revised title.

Changes were made in phraseology.

SECTION 614—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 152 (Mar. 4, 1913, ch. 145, 37 Stat. 832).

Changes were made in phraseology.

SECTION 615—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 153, 155 (Mar. 4, 1913, ch. 145, 37 Stat. 832, 833).

Subsections (a) and (b) are from sections 155 and 153, respectively, of title 21, U. S. C., 1952 ed.

In subsection (b) of this revised section, the provision of section 153 of title 21, U. S. C., 1946 ed., that the Secretary of Agriculture may "cause the Bureau of Animal Industry to examine and inspect", etc., was changed to provide that "The Secretary may cause to be examined and inspected", etc., thus omitting the reference to the Bureau of Animal Industry. This change was made because of 1947 Reorganization Plan No. 1, § 301, effective July 1, 1947, 12 F. R. 4534, 61 Stat. 952. See Revision Note to section 570 of this title.

Changes were made in phraseology.

SECTION 616—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 156 (Mar. 4, 1913, ch. 145, 37 Stat. 833).
Section is from part of section 156 of title 21, U. S. C., 1952 ed. The remainder of that section is consolidated in section 612 of this title.

Changes were made in phraseology.

SECTION 617—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 158 (Mar. 4, 1913, ch. 145, 37 Stat. 833).
Style of this section was changed to conform with that adopted in the revision of title 18, U. S. C., Crimes and Criminal Procedure.

“Whoever” was substituted for “Any person, firm, or corporation who” in view of the definition of “whoever” in section 1 of title 1, U. S. C. Phrase “shall be fined not more than \$1,000 or imprisoned not more than one year, or both” was substituted for “shall be deemed guilty of a misdemeanor, and shall, upon conviction, be punished by a fine of not exceeding \$1,000 or by imprisonment not exceeding one year, or by both such fine and imprisonment, in the discretion of the court”. Reference to a misdemeanor is unnecessary since that term is defined in section 1 of title 18, U. S. C. Reference to conviction is superfluous since punishment can only be imposed after conviction.

PART III.—NARCOTICS

Chapter	Sec.
91. Administration.....	711
93. Narcotics import and export.....	761
95. Domestic opium poppy production control.....	811

CHAPTER 91—ADMINISTRATION

Sec.
711. Administration of Part III; delegation of functions.
712. Departmental cooperation in discharge of international obligations.
713. Cooperation with States in suppression of abuse.
714. Payments for information.

SECTION 711—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 177, 188j (Feb. 9, 1909, ch. 100, § 2, 35 Stat. 614; Jan. 17, 1914, ch. 9, 38 Stat. 275; May 26, 1922, ch. 202, § 1, 42 Stat. 596; June 7, 1924, ch. 352, 43 Stat. 657; Dec. 11, 1942, ch. 720, § 11, 56 Stat. 1048).

Section consolidates section 177 of title 21, U. S. C., 1952 ed., which related to the Narcotic Drugs Import and Export Act, with those parts of subsection (a) of section 188j of such title which imposed the duty of enforcing and administering the Opium Poppy Control Act of 1942 upon the Secretary of the Treasury, and authorized him to delegate such functions to officers and employees of the Treasury Department. For other provisions of such section 188j, see Distribution Table.

The power to delegate functions was not provided for in section 177 of title 21, U. S. C., 1952 ed., referred to above, but such delegation is current practice and is in conformity with 1950 Reorganization Plan No. 26, §§ 1, 2, effective July 31, 1950, 15 F. R. 4935, 64 Stat. 1280,

1281. That Plan transferred all functions of all officers and employees of the Treasury Department, and of all agencies of such Department, to the Secretary of the Treasury, and authorized such Secretary to delegate any of such transferred functions, or any of his other functions, to any officers, agencies and employees within such Department. Therefore, as revised, this section applies to all functions prescribed for the Secretary by this part.

Changes were made in phraseology.

SECTION 712—SECTION UNCHANGED

Based on title 21, U. S. C., 1952 ed., § 197 (June 14, 1930, ch. 488, § 7, 46 Stat. 587).

SECTION 713—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 198 (June 14, 1930, ch. 488, § 8, 46 Stat. 587).

Changes were made in phraseology and arrangement.

SECTION 714—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 199 (July 3, 1930, ch. 829, 46 Stat. 850; 1950 Reorganization Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, 1281).

Changes were made in phraseology.

CHAPTER 93—NARCOTICS IMPORT AND EXPORT

Sec.

761. Definitions.

762. Rules and regulations.

763. Importation; exceptions and restrictions; forfeitures.

764. Import for purpose of transportation, to another country; transfer between vessels.

765. Penalty for unlawful import, receipt, transportation, or sale; subsequent offenses; procedure; evidence; liability of masters and persons in charge.

766. Presumption and burden of proof as to importation of smoking opium.

767. Exportation; exceptions; laws of foreign governments.

768. Penalty for unlawful export.

769. Penalty for having in possession or control on board United States vessel.

770. Penalty for possession, receipt, or concealment of smoking opium; evidence; liability of masters and persons in charge.

771. Share of fine to informer.

772. Short title.

SECTION 761—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 171 (Feb. 9, 1909, ch. 100, § 1, 35 Stat. 614; Jan. 17, 1914, ch. 9, 38 Stat. 275; May 26, 1922, ch. 202, § 1, 42 Stat. 596; June 14, 1930, ch. 488, § 3, 46 Stat. 586; Mar. 8, 1946, ch. 81, § 7, 60 Stat. 39; Aug. 8, 1953, ch. 394, § 8, 67 Stat. 506).

In the revised section, words "unless the context requires a different meaning" were inserted because of the more extended definition given "narcotic drug" in section 769 of this title.

Former subsection (c) of section 171 of title 21, U. S. C., 1952 ed., which defined "board" as meaning the Federal Narcotics Control Board, had already been eliminated from that section because of the abolishment of such board, and the transfer of its powers and func-

tions to the Commissioner of Narcotics, by section 282b of title 5, U. S. C., 1952 ed., Executive Departments and Government Officers and Employees. It is accordingly omitted in this revised section.

Item (c) of the revised section, defining "Secretary" as the Secretary of the Treasury, is new and was inserted to obviate the necessity for referring to such Secretary by his full title in various sections of this chapter.

Changes were made in phraseology and arrangement.

SECTION 762—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 182 (Feb. 9, 1909, ch. 100, § 6, as added Jan. 17, 1914, ch. 9, 38 Stat. 275; May 26, 1922, ch. 202, § 2, 42 Stat. 597; June 14, 1930, ch. 488, § 3, 46 Stat. 586; 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, 1281).

Section is from subsection (c) of section 182 of title 21, U. S. C., 1952 ed.

"Secretary of the Treasury" was changed to "Secretary" in view of the definition of "Secretary" in section 761 of this title.

Changes were made in phraseology.

SECTION 763—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 173, 173a, 188h (Feb. 9, 1909, ch. 100, § 2, 35 Stat. 614; Jan. 17, 1914, ch. 9, 38 Stat. 275; May 26, 1922, ch. 202, § 1, 42 Stat. 596; June 7, 1924, ch. 352, 43 Stat. 657; June 14, 1930, ch. 488, §§ 3, 6, 46 Stat. 586, 587; Dec. 11, 1942, ch. 720, § 9, 56 Stat. 1047; 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, 1281).

Section consolidates sections 173, 173a, and 188h (b) of title 21, U. S. C., 1952 ed., with changes in phraseology and arrangement necessary to effect consolidation.

In paragraph (1) of subsection (a), "scientific" was substituted for "legitimate" as the latter appeared in the phrase "for medical and legitimate uses". According to information furnished by the Department of the Treasury, since the phrase "for medical and legitimate uses" was originally used in the Narcotic Drugs Import and Export Act, the United States has ratified the Narcotics Limitation Convention of 1931 (proclaimed by the President July 10, 1933). Under this Convention (Articles 4 and 6), the United States is obligated to limit our manufacture of narcotics to medical and "scientific" requirements. Therefore, there appears to be no "legitimate" use for narcotics that is not medical or scientific. This was recognized by Congress when it enacted the Opium Poppy Control Act of 1942 (similar provisions of which are incorporated in section 811 et seq. of this revised title), where the standard is that of medical and scientific needs.

In paragraph (2) of subsection (a), words "or any territory under its control or jurisdiction" were inserted after "United States" to clarify the probable intent of Congress.

In paragraph (2) of subsection (c), the reference to sections "514 and 515" of title 19, which was contained in section 173 of title 21, U. S. C., 1952 ed., was changed to sections "1607 and 1608" of title 19, in view of the clause "or the provisions of law hereafter enacted which are amendatory of, or in substitution for, such sections", which

immediately followed such reference. Such sections 514 and 515 of title 19 were repealed by Act June 17, 1930, ch. 497, title IV, § 651 (a) (1), 46 Stat. 762. The same Act enacted such sections 1607 and 1608 of such title, into which the provisions of such former sections 514 and 515 were carried.

Subsection (b) of section 188h of title 21, U. S. C., 1952 ed., which was a part of the Opium Poppy Control Act of 1942, was transferred to this chapter and incorporated in paragraph (1) of subsection (a) of this revised section, because it relates more particularly to imports of crude opium, specifically empowering the Secretary of the Treasury to limit or entirely prohibit such imports to the extent that he finds that the medical and scientific needs of the United States for opium or opium products are being, or can be, supplied by opium poppies produced in accordance with chapter 95 of this title. However, the further provision of such section 188h (b) that nothing in "sections 188-188n of this title" (the Opium Poppy Control Act of 1942, which, for the most part, is incorporated in chapter 95 of this revised title) shall be construed to repeal the provisions of "sections 171-185 of this title" (the Narcotic Drugs Import and Export Act, which, for the most part, is incorporated in this chapter), as amended, was omitted as unnecessary in a revision. The provisions of both Acts have been carried into this revised title, and, upon their simultaneous reenactment herein, will stand in *pari materia* and must, or should be, construed together.

All references to the "Secretary of the Treasury" were changed to "Secretary" in view of the definition of "Secretary" in section 761 of this title.

For remainder of section 188h of title 21, U. S. C., 1952 ed., see Distribution Table.

SECTION 764—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 180 (Feb. 9, 1909, ch. 100, § 5; Jan. 17, 1914, ch. 9, 38 Stat. 275; May 26, 1922, ch. 202, § 2, 42 Stat. 597; June 14, 1930, ch. 488, § 3, 46 Stat. 586; 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, 1281).

The only change was the substitution of "Secretary" for "Secretary of the Treasury" in view of the definition of "Secretary" in section 761 of this title.

SECTION 765—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 174, 176 (Feb. 9, 1909, ch. 100, § 2, 35 Stat. 614; Jan. 17, 1914, ch. 9, 38 Stat. 275; May 26, 1922, ch. 202, § 1, 42 Stat. 596; June 7, 1924, ch. 352, 43 Stat. 657; Nov. 2, 1951, ch. 666, §§ 1, 5 (1), 65 Stat. 767, 769).

Section consolidates sections 174 and 176 of title 21, U. S. C., 1952 ed.

It has been the policy, throughout the revision of this title, to rephrase mandatory punishment provisions of fine *and* imprisonment in alternative provisions of fine *or* imprisonment, *or* both, since this policy was followed by Congress in the revision of title 18, U. S. C., Crimes and Criminal Procedure, which became law in 1948, and because, as a general rule, the court has power under section 3651

of that title to suspend sentence. It was also the policy in the revision of title 18, U. S. C., to omit provisions for minimum fines and terms of imprisonment, because of the court's power under section 3651 of that title to suspend sentence (whenever the offense is not punishable by death or life imprisonment), and because of the same policy followed by the codifiers of the 1909 Criminal Code (see S. Rept. 10, pt. 1, pp. 12, 13, 14, 60th Cong., 1st Sess., to accompany S. 2982). However, section 174 of title 21, U. S. C., 1952 ed., which has been carried into subsection (a) of this revised section, was amended as late as November 2, 1951 (ch. 666, § 1), which amendment, among other changes, retained and inserted mandatory punishment provisions for fine *and* imprisonment, and inserted provisions for minimum fines and terms of imprisonment. Further, the amendment inserted provisions that for a second or subsequent offense, the imposition or execution of sentence should not be suspended and probation should not be granted. In view of such amendment and provisions, it was deemed advisable to leave the punishment provisions in subsection (a) of this section unchanged.

Changes were made in phraseology.

SECTION 766—SECTION UNCHANGED

Based on title 21, U. S. C., 1952 ed., § 181 (Feb. 9, 1909, ch. 100, § 3; Jan. 17, 1914, ch. 9, 38 Stat. 275).

SECTION 767—SECTION REVISED

Based on title 21, U. S. C., 1946 ed., § 182 (Feb. 9, 1909, ch. 100, § 6; Jan. 17, 1914, ch. 9, 38 Stat. 275; May 26, 1922, ch. 202, § 2, 42 Stat. 597; June 14, 1930, ch. 488, § 3, 46 Stat. 586; 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, 1281).

Section constitutes subsections (a) and (b) of section 182 of title 21, U. S. C., 1952 ed. For remainder of such section 182, see Distribution Table.

In paragraph (3) of subsection (a), "scientific" was substituted for "legitimate" as the latter appeared in the two identical phrases "for medical and legitimate uses". See Revision Note to section 763 of this title.

Words in subsection (a) of section 182 of title 21, U. S. C., 1952 ed., "or from countries in which the United States exercises extraterritorial jurisdiction," were omitted. The United States formerly exercised extraterritorial jurisdiction in China, but this right was relinquished by virtue of the Treaty of January 11, 1943, 57 Stat. 767, with that country.

All references to the "Secretary of the Treasury" were changed to "Secretary" in view of the definition of "Secretary" in section 761 of this title.

In the definition of "person," "individual" was substituted for "natural person or persons" to harmonize with other sections of this title. Reference to the plural is not necessary in view of section 1 of title 1, U. S. C., General Provisions, which provides that, in determining the meaning of any act of Congress, unless the context indicates otherwise, words importing the singular include and apply to several persons, parties, or things.

Changes were made in phraseology and arrangement.

SECTION 768—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 183 (Feb. 9, 1909, ch. 100, § 7, as added Jan. 17, 1914, ch. 9, 38 Stat. 277).

Section is based on the first sentence of section 183 of title 21, U. S. C., 1952 ed. For other provisions of such section 183, see Distribution Table.

The reference in section 183 of title 21, U. S. C., 1952 ed., to persons causing unlawful export of narcotic drugs was omitted as unnecessary in view of definition of "principal" contained in section 2 of title 18, U. S. C., Crimes and Criminal Procedure.

The provision in section 183 of title 21, U. S. C., 1952 ed., for minimum fine of \$50 was omitted because of the court's power under section 3651 of title 18, U. S. C., Crimes and Criminal Procedure, to suspend sentence. The omission conforms with the policy adopted by Congress in the revision of such title 18, which became law in 1948, and also with the policy adopted by the codifiers of the prior Criminal Code of 1909. (See S. Rept. 10, pt. 1, pp. 12, 13, 14, 60th Cong., to accompany S. 2982.)

Changes were made in phraseology.

SECTION 769—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 184a (July 11, 1941, ch. 289, § 1, 55 Stat. 584).

Changes were made in phraseology.

SECTION 770—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 178, 179 (Feb. 9, 1909, ch. 100, § 4, as added Jan. 17, 1914, ch. 9, 38 Stat. 275).

Section consolidates sections 178 and 179 of title 21, U. S. C., 1952 ed.

Changes were made in phraseology.

SECTION 771—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 183 (Feb. 9, 1909, ch. 100, § 7, as added Jan. 17, 1914, ch. 9, 38 Stat. 277).

Section constitutes the second and third sentences of section 183 of title 21, U. S. C., 1952 ed., with changes in phraseology. For remainder of such section 183, see Distribution Table.

As revised, the section is extended to cover fines paid for violating certain provisions of law which were not a part of the Narcotic Drugs Import and Export Act, either as such Act was originally enacted, or as later amended. For example, see section 769 of this title, which was derived from section 184a of title 21, U. S. C., 1952 ed. Such section 184a was not a part of said Act.

SECTION 772—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 185 (Feb. 9, 1909, ch. 100, § 9, as added May 26, 1922, ch. 202, § 4, 42 Stat. 598).

By using the words "this chapter," this section extends the coverage of the short title to certain provisions which were not a part of the original Act (specifically, sections 763 (a) (2), 763 (b) (part), and 769 of this title); and it excludes from such coverage that part of the original Act (part of section 177 of title 13, U. S. C., 1952 ed.) which was carried into section 711 of this title, and which relates merely to administration of this entire part, as set out in such section 711.

CHAPTER 95—DOMESTIC OPIUM POPPY PRODUCTION CONTROL

Sec.

- 811. Declaration of policy; assistance from Federal agencies.
- 812. Definitions.
- 813. Rules and regulations.
- 814. Licenses; qualifications; limitations; revocation and renewal.
- 815. Distribution by Federal Government; personnel of Treasury Department excepted from prohibitions.
- 816. Production, purchase, manufacture, sale, or transportation by unlicensed persons.
- 817. Seizure and forfeiture of opium poppies illegally possessed; disposition.
- 818. Penalties.
- 819. Pleading, presumptions, and burden of proof.
- 820. Application to, and of, other laws.
- 821. Territorial application.
- 822. Short title.

SECTION 811—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., §§ 188, 188j (Dec. 11, 1942, ch. 720, §§ 1, 11, 56 Stat. 1045, 1048).

Section consolidates section 188 of title 21, U. S. C., 1952 ed., with subsection (b) of section 188j of such title. For remainder of such section 188j, see Distribution Table.

In par. (1) of subsection (a), words "as amended by the Protocol signed at Lake Success, New York, on December 11, 1946" were inserted, because the 1931 Treaty, referred to therein, was so amended.

The reference in subsection (b) of section 188j of title 21, U. S. C., 1952 ed., "and particularly the Bureau of Plant Industry in the Department of Agriculture," was omitted from subsection (b) of this revised section because the functions of this Bureau, which was renamed the Bureau of Plant Industry, Soils, and Agricultural Engineering by departmental action under Executive Order No. 9069, February 23, 1942, 7 F. R. 1409, set out in note to section 601 of appendix to title 50, U. S. C., 1952 ed., War and National Defense, were transferred to the Secretary of Agriculture by 1947 Reorganization Plan No. 1, § 301, effective July 1, 1947, 12 F. R. 4534, 61 Stat. 952, to be performed by him "or, subject to his direction and control, by such officers and agencies of the Department of Agriculture as he may designate." However, subsection (b), even without such specific reference, is sufficiently broad to cover that Department or any agencies or bureaus therein.

Changes were made in phraseology.

SECTION 812—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 188a (Dec. 11, 1942, ch. 720, § 2, 56 Stat. 1045).

Definition of "Secretary" was inserted to eliminate the necessity for frequently referring throughout the chapter to the Secretary of the Treasury by his full title.

Changes were made in phraseology and arrangement.

SECTION 813—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 188j (Dec. 11, 1942, ch. 720, § 11, 56 Stat. 1048).

Section constitutes part of subsection (a) of section 188j of title 21, U. S. C., 1952 ed. For remainder of such section 188j, see Distribution Table.

Changes were made in phraseology.

SECTION 814—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 188e (Dec. 11, 1942, ch. 720, § 6, 56 Stat. 1046).

Changes were made in phraseology and arrangement.

SECTION 815—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 188i (Dec. 11, 1942, ch. 720, § 10, 56 Stat. 1048).

Changes were made in phraseology.

SECTION 816—SECTION REVISED

Based on title 21 U. S. C., 1952 ed., §§ 188b, 188c, 188d, 188f (Dec. 11, 1942, ch. 720, §§ 3, 4, 5, 7, 56 Stat. 1045-1047).

Section consolidates sections 188b, 188c, 188d and 188f of title 21, U. S. C., 1952 ed., the purpose being to consolidate into one general section all of the prohibitions with respect to the unlicensed production, purchase, manufacture, sale, transportation, etc. of opium poppies, opium poppy seed, opium, or opium products, as the case may be.

Surplusage was omitted and changes were made in phraseology.

SECTION 817—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 188g (Dec. 11, 1942, ch. 720, § 8, 56 Stat. 1047).

Changes were made in phraseology.

SECTION 818—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 188l (Dec. 11, 1942, ch. 720, § 13, 56 Stat. 1048).

Provisions of subsection (a) of section 188l of title 21, U. S. C., 1952 ed., defining violation of this chapter as a felony, and provision of subsection (b) of such section, defining the act of making or preparing false statements in connection with an application for a license as a misdemeanor, were omitted as unnecessary and covered by the general provisions of section 1 of title 18, U. S. C., Crimes and Criminal Procedure, classifying and defining crimes.

Words "upon conviction thereof" contained in both subsections of section 188l of title 21, U. S. C., 1952 ed., were omitted as surplusage, as there can be no punishment without a conviction, and words "in the discretion of the court", contained in subsection (a) of such section, were likewise omitted as surplusage.

The section was rewritten to adopt, partially, the style adopted by Congress in the revision of title 18, U. S. C., Crimes and Criminal Procedure, which became law in 1948.

SECTION 819—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 188m (Dec. 11, 1942, ch. 720, § 14, 56 Stat. 1048).

The only change was the re-translation of references so as to refer to "this chapter" and "section 814 of this title".

SECTION 820—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 188h (Dec. 11, 1942, ch. 720, § 9, 56 Stat. 1047).

Section constitutes subsection (a) of section 188h of title 21, U. S. C., 1952 ed. For remainder of such section 188h, see Distribution Table.

Specific references to parts of the Internal Revenue Code were omitted and a general reference to such Code was substituted therefor, as sufficient.

Changes were made in phraseology.

SECTION 821—SECTION REVISED

Based on title 21, U. S. C., 1952 ed., § 188k (Dec. 11, 1942, ch. 720, § 12, 56 Stat. 1048).

The only change was the re-translation of the reference "sections 188-188n of this title" to "this chapter".

SECTION 822—NEW SECTION

Section is new in the sense that Act Dec. 11, 1942, ch. 720, § 17, 56 Stat. 1049, on which it is based, was not classified to the United States Code except as a note under section 188 of title 21, U. S. C., 1952 ed.

The additional designation "of 1942" has been dropped from the short title as herein set out because of the repeal, by the bill enacting this revised title, of the 1942 Act, and the incorporation of the provisions thereof in this chapter.

TABLE 1.—STATUTES AT LARGE

Showing where the Statutes at Large will be found in revised title 21

Date	Chapter	Title	Section	Volume	Page	Title 21—Section
1884—May 29	60		2	23	31	554
May 29	60		3	23	32	552
May 29	60		4, 5	23	32	558, 565
May 29	60		6	23	32	562
May 29	60		7	23	32	573
May 29	60		8	23	33	571
May 29	60		9	23	33	574
May 29	60		11			552
May 29	60		12			553
May 29	60		13			564
1889—Feb 9	122		1	25	659	554
1890—July 14	707			26	288	554
Aug. 30	839		4	26	415	113
Aug. 30	839		6	26	416	567, 573
Aug. 30	839		7	26	416	569
Aug. 30	839		8	26	416	568, 570
Aug. 30	839		9	26	416	566
Aug. 30	839		10	26	417	565, 570
1897—Mar. 2	358		1	29	604	261
Mar. 2	358		2	29	604	262
Mar. 2	358		2	29	605	3
Mar. 2	358		3	29	605	262
Mar. 2	358		4	29	605	263
Mar. 2	358		5	29	605	264
Mar. 2	358		6	29	606	4, 267
Mar. 2	358		7	29	606	265, 266
Mar. 2	358		8	29	606	268
Mar. 2	358		9	29	606	269
Mar. 2	358		10	29	607	270
1902—May 9	784		1	32	193	60
1903—Feb. 2	349		1	32	791	558, 565, 572
Feb. 2	349		2	32	792	551
Feb. 2	349		3	32	792	573
1905—Mar. 3	1496		1	33	1264	559
Mar. 3	1496		2	33	1264	561
Mar. 3	1496		3	33	1265	560
Mar. 3	1496		4	33	1265	561
Mar. 3	1496		6	33	1265	573
1906—June 30	3915		10A			57, 151
1907—Mar. 4	2907			34	1260	492, 493
Mar. 4	2907			34	1261	493, 494, 497
Mar. 4	2907			34	1262	495-497, 505
Mar. 4	2907			34	1263	498
Mar. 4	2907			34	1263	499, 507, 565
Mar. 4	2907			34	1264	500, 502, 503, 506
Mar. 4	2907					508, 510, 573
Mar. 4	2907			34	1265	491, 501, 509
1908—May 16	170			35	163	261
May 23	192			35	254	512
1909—Feb. 9	100		1	35	614	761
Feb. 9	100		2			763, 766, 711
Feb. 9	100		3			766
Feb. 9	100		4			770
Feb. 9	100		5			764
Feb. 9	100		6			762, 767
Feb. 9	100		7			768, 771
Feb. 9	100		9			773
1910—May 26	256			36	440	557
1913—Mar. 4	145			37	832	611-615
Mar. 4	145			37	833	612, 615-617
1914—June 30	131			38	419	561
June 30	131			38	420	513
Jan. 17	9			38	275	711, 761-763, 764-767, 770
Jan. 17	9			38	277	768, 771
1919—July 24	26			41	241	511
July 24	26			41	271	41
1920—May 31	217			41	699	563
May 31	217			41	712	3, 4
May 31	217			41	712	261-263, 265-270
May 31	217			41	713	4, 265-267

TABLE 1.—STATUTES AT LARGE—Continued

Showing where the Statutes at Large will be found in revised title 21—Continued

Date	Chapter	Title	Section	Volume	Page	Title 21—Section
1922—May 26	202		1	42	596	711, 761, 763, 765
May 26	202		2	42	597	762, 764, 767
May 26	202		4	42	598	773
1923—Mar. 4	262		1	42	1486	221
Mar. 4	262		2	42	1487	222, 224
Mar. 4	262		3	42	1487	224
Mar. 4	262		4			223
Mar. 4	268			42	1500	41
1924—June 7	352			43	657	711, 763, 765
1926—June 28	700		1	44	774	562
June 28	700		2	44	775	567, 573
1927—Feb. 15	155		1	44	1101	202
Feb. 15	155		2	44	1101	203
Feb. 15	155		3	44	1102	204
Feb. 15	155		4, 5	44	1103	205
Feb. 15	155		8	44	1103	206
Feb. 15	155		9	44	1103	201
Mar. 4	489		1	44	1406	320
Mar. 4	489		2	44	1406	311, 319
Mar. 4	489		3	44	1407	312
Mar. 4	489		4	44	1408	316
Mar. 4	489		5	44	1408	313
Mar. 4	489		6	44	1409	314
Mar. 4	489		7	44	1409	317
Mar. 4	489		8	44	1409	318
Mar. 4	489		9	44	1409	315
Mar. 4	489		12	44	1410	319
1928—Feb. 7	30			45	59	551, 552, 554, 558— 562, 565, 571—574
1930—May 27	341			46	392	1
May 27	341			46	422	1
June 14	488		3	46	586	761-763, 764, 767
June 14	488		6	46	587	763
June 14	488		7	46	587	712
June 14	488		8	46	587	713
July 3	829			46	850	714
1931—Feb. 28	348			46	1460	567, 573
1934—June 22	712			48	1204	57, 151
1935—Aug. 27	739			49	871	57, 151
Aug. 27	743			49	885	222
1938—June 25	675		1	52	1040	44
June 25	675		201	52	1041	41, 42, 43
June 25	675		301	52	1042	151
June 25	675		302	52	1043	153
June 25	675		303	52	1043	152
June 25	675		304	52	1044	154
June 25	675		305	52	1045	155
June 25	675		306	52	1045	156
June 25	675		307	52	1046	157
June 25	675		401	52	1046	51
June 25	675		402	52	1046	52
June 25	675		403	52	1047	53
June 25	675		404	52	1048	56
June 25	675		405	52	1049	54
June 25	675		406	52	1049	55
June 25	675		501	52	1049	71
June 25	675		502	52	1050	72
June 25	675		503	52	1051	73
June 25	675		504	52	1052	74
June 25	675		505	52	1052	75
June 25	675		506			76
June 25	675		507			77
June 25	675		601	52	1054	91
June 25	675		602	52	1054	92
June 25	675		603	52	1054	93
June 25	675		604	52	1055	94
June 25	675		701	52	1055	131
June 25	675		702	52	1056	132
June 25	675		702A	52	1043	151
June 25	675		702A	52	1059	57
June 25	675		703	52	1057	133
June 25	675		704	52	1057	134
June 25	675		705	52	1057	135
June 25	675		706	52	1058	136
June 25	675		801	52	1058	111, 112
June 25	675		902 (b)	52	1, 059	61
June 29	810			52	1, 235	491, 501, 509

TABLE 1.—STATUTES AT LARGE—Continued

Showing where the Statutes at Large will be found in revised title 21—Continued

Date	Chapter	Title	Section	Volume	Page	Title 21—Section
1939—June 23.....	242		3.....	53	854	72
1940—June 27.....	437	I		54	632	263
1941—July 1.....	269	II		55	478	263
July 11.....	289		1.....	55	584	769
Dec. 22.....	613		1.....	55	851	151
Dec. 22.....	613		2.....	55	851	72
Dec. 22.....	613		3.....	55	851	76
1942—Dec. 11.....	720		1.....	56	1045	811
Dec. 11.....	720		2.....	56	1045	812
Dec. 11.....	720		3, 4, 5.....	56	1045-1047	816
Dec. 11.....	720		6.....	56	1046	814
Dec. 11.....	720		7.....	56	1047	816
Dec. 11.....	720		8.....	56	1047	817
Dec. 11.....	720		9.....	56	1047	763, 820
Dec. 11.....	720		10.....	56	1048	815
Dec. 11.....	720		11.....	56	1048	711, 811, 813
Dec. 11.....	720		12.....	56	1048	821
Dec. 11.....	720		13.....	56	1048	818
Dec. 11.....	720		14.....	56	1048	819
Dec. 11.....	720		17.....	56	1049	822
1943—July 12.....	221			57	500	3
July 12.....	221	II	1.....	57	500	57, 151
July 12.....	221	II	201.....	57	500	137
1944—Mar. 2.....	77			58	108	41
Sept. 21.....	412	1	101 (a).....	58	734	552
1945—July 6.....	281		1.....	59	463	151
July 6.....	281		2.....	59	463	72
July 6.....	281		3.....	59	463	77
1946—Mar. 8.....	81		7.....	60	39	761
June 22.....	445		1.....	60	278	557
1947—Feb. 28.....	8		1-3.....	61	7, 8	555
Mar. 10.....	16		1.....	61	11	151
Mar. 10.....	16		2.....	61	11	72
Mar. 10.....	16		3.....	61	12	77
July 30.....	356	I	1.....	61	531	504
1948—Apr. 24.....	229			62	198	553
June 5.....	423			62	344	504
June 16.....	477			62	458	556
June 24.....	613		1.....	62	582	151
June 24.....	613		2.....	62	582	154
1949—July 13.....	305		1.....	63	409	72
July 13.....	305		2.....	63	409	77
Oct. 18.....	696			63	882, 883	111
1950—Mar. 16.....	61		3 (a).....	64	20	58
Mar. 16.....	61		3 (b).....	64	20	151
Mar. 16.....	61		3 (c).....	64	20, 21	59
Mar. 16.....	61		3 (d).....	64	21	52
Mar. 16.....	61		6.....	64	22	60
1951—Oct. 26.....	578		1.....	65	648	73
Oct. 26.....	578		2.....	65	649	152
Oct. 30.....	637		1.....	65	693	552
Oct. 30.....	637		2.....	65	693	564
Nov. 2.....	666		1.....	65	767	765
1953—Aug. 5.....	334		1.....	67	389	72
Aug. 5.....	334		2.....	67	389	77
Aug. 7.....	350		1.....	67	476, 477	134
Aug. 7.....	350		2.....	67	477	151
Aug. 7.....	350		3.....	67	477	154
Aug. 8.....	381			67	493, 494	552
Aug. 8.....	394		8.....	67	506	761

TABLE 1.—STATUTES AT LARGE—Continued

Showing where the Statutes at Large will be found in revised title 21—Continued

Date	Chapter	Title	Section	Volume	Page	Title 21—Section
1954—Apr. 15.....	143	-----	1-----	68	54	51
Apr. 15.....	143	-----	2-----	68	55	131
			1940 Reorganiza- tion Plan No. 4, §§ 12, 13, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237.	-----	-----	1, 2
			1940 Reorganiza- tion Plan No. 4, §12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237.	-----	-----	3, 4, 41, 42, 43, 51-57, 71
			1940 Reorganiza- tion Plan No. 4, §§ 12, 13, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237.	-----	-----	72
			1940 Reorganiza- tion Plan No. 4, §12, eff. June 30, 1940, 5 F. R. 2422, 54 Stat. 1237.	-----	-----	73-75, 92-94, 111, 112, 131-135, 151, 152, 154-156, 202, 204, 223, 261-263, 267, 270, 313, 315, 318
			1950 Reorganiza- tion Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, 1281.	-----	-----	714, 762, 763, 764, 767
			1953 Reorganiza- tion Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 632.	-----	-----	1-4, 41-43, 51-57, 71-77, 92-94, 111, 112, 131-135, 137, 151, 152, 154-156, 202, 204, 223, 261- 263, 267, 270, 313, 315, 318

TABLE 2.—UNITED STATES CODE

Showing where sections of the United States Code, 1952 edition, will be found in revised title 21, U. S. C.

United States Code	Title 21	United States Code	Title 21	United States Code	Title 21
Title 15:		Title 21—Con.		Title 21—Con.	
401.....	320	102.....	569	188.....	811
402.....	311, 319	103.....	568, 570	188a.....	812
403.....	312	104.....	567, 573	188b.....	816
404.....	316	105.....	565, 570	188c.....	816
405.....	313	111.....	551	188d.....	816
406.....	314	112.....	565	188e.....	814
407.....	317	113.....	565	188f.....	816
408.....	318	113a.....	553	188g.....	817
409.....	315	114.....	552	188h.....	763, 820
411.....	319	114a.....	552	188i.....	815
Title 21:		114a-1.....	564	188j.....	711, 811, 813
6.....	41	114b.....	555	188k.....	821
14a.....	57	114c.....	555	188l.....	818
18.....	113	114d.....	555	188m.....	819
25.....	60	114e.....	556	197.....	712
41.....	261	114f.....	556	198.....	713
42.....	3, 262	115.....	562	199.....	714
43.....	262	116.....	563	301.....	44
44.....	263	117.....	573	321.....	41, 42, 43
45.....	264	118.....	574	321a.....	41
46.....	265, 266	119.....	554	321b.....	41
46a.....	263	120.....	558	321c.....	41
47.....	4, 267	121.....	572	331.....	151
48.....	268	122.....	573	332.....	153
49.....	269	123.....	559	333.....	152
50.....	270	124.....	561	334.....	154
61.....	221	125.....	560	335.....	155
62.....	222, 224	126.....	561	336.....	156
63.....	224	127.....	573	337.....	157
64.....	223	128.....	561	341.....	51
71.....	492	130.....	571	342.....	52
72.....	493	131.....	557	343.....	53
73.....	493	132.....	512	344.....	56
74.....	494, 497	141.....	202	345.....	54
75.....	495	142.....	203	346.....	55
76.....	496	143.....	204	347.....	59
77.....	497	144.....	205	347a.....	58
78.....	505	145.....	205	347b.....	60
79.....	507	148.....	206	351.....	71
80.....	565	149.....	201	352.....	72
81.....	499	151.....	611	353.....	73
82.....	565	152.....	614	354.....	74
83.....	498	153.....	615	355.....	75
84.....	499	154.....	612, 613	356.....	76
85.....	498	155.....	615	357.....	77
86.....	499	156.....	612, 616	361.....	91
87.....	506	157.....	612	362.....	92
88.....	508, 573	158.....	617	363.....	93
89.....	500, 502, 503	171.....	761	364.....	94
90.....	510	173.....	763	371.....	131
91.....	491, 501, 509	173a.....	763	372.....	132
92.....	509	174.....	765	372a.....	57, 151
94.....	513	176.....	765	373.....	133
94a.....	512	177.....	711	374.....	134
96.....	511	178.....	770	375.....	135
97.....	504	179.....	770	376.....	136
97a.....	504	180.....	764	377.....	137
97b.....	504	181.....	767	381 (a, b, c).....	111
97c.....	504	182.....	762, 767	381 (d).....	112
97d.....	504	183.....	768, 771	392.....	61
98.....	504	184a.....	769		
101.....	566	185.....	772		

TABLE 3.—OMITTED LAWS

Showing laws omitted from revised title 21 U. S. C., and included in the schedule of repeals

[The citations in the first two columns give the titles and sections of the United States Code, 1952 ed. The citations in the third column indicate the corresponding Statutes at Large, or parts thereof. The reasons for omission and repeal are given in the fourth column]

U. S. C., 1952 ed.		Statutes at Large	Reasons for omission and repeal
Title	Section		
7	391 note	May 29, 1884, ch. 60, § 10, 23 Stat. 33.	Executed and obsolete.
15	410	Mar. 4, 1907, ch. 489, § 10, 44 Stat. 1410.	Covered by a section of the enacting bill providing for separability of provisions.
21	1 note	Aug. 30, 1890, ch. 839, §§ 2, 3, 26 Stat. 415.	Superseded by the Food and Drugs Act of 1906 (21 U. S. C., 1952 ed., § 1 et seq.), which in turn, was superseded for the most part by the Federal Food, Drugs, and Cosmetic Act of 1938 (21 U. S. C., 1952 ed., § 301 et seq.), incorporated in various sections of this revision.
21	16, 17	July 1, 1902, ch. 1357, §§ 1, 2, 32 Stat. 632.	Superseded by former section 9 of T. 21 U. S. C., which was covered by 21 U. S. C., 1946 ed., § 343 (a), which is incorporated in section 53 of this revision.
21	24	Mar. 4, 1915, ch. 144 38 Stat. 1102.	Obsolete, since the authority for the inspections to which this section related was omitted from the appropriation act of July 12, 1943, ch. 221, 57 Stat. 494 and subsequent acts.
21	26	Jan. 18, 1927, ch. 39, 44 Stat. 984; May 16, 1928, ch. 572, 45 Stat. 548; Feb. 16, 1929, ch. 227, 45 Stat. 1198.	Superseded by 5 U. S. C., 1952 ed., § 571.
21	71 note	Aug. 30, 1890, ch. 839, § 1, 26 Stat. 414.	Superseded by the Meat Inspection Act of 1907 (21 U. S. C., § 71 et seq.), which is incorporated in Chapter 53 of this revision.
21	95	June 30, 1906, ch. 3913, 34 Stat. 679; June 26, 1934, ch. 756, § 2, 48 Stat. 1225.	Unnecessary in revised Title 21. A section of the bill enacting this title authorizes appropriations for the entire title.
21	106, 107	Aug. 10, 1917, ch. 52, § 9, 40 Stat. 275; Nov. 21, 1918, ch. 212, § 3, 40 Stat. 1048.	Expired when the national emergency resulting from World War I passed.
21	112 note	May 29, 1884, ch. 60, § 10, 23 Stat. 33.	Executed and obsolete.
21	146	Feb. 15, 1927, ch. 155, § 6, 44 Stat. 1103.	Unnecessary in revised Title 21. A section of the bill enacting this title authorizes appropriations for the entire title.
21	147	Feb. 15, 1927, ch. 155, § 7, 44 Stat. 1103.	Section merely repealed laws inconsistent with sections 141-149 of T. 21, U. S. C., 1946 ed., which sections are themselves repealed by this revision.
21	172	Feb. 9, 1909, ch. 100, § 2, 35 Stat. 614; Jan. 17, 1914, ch. 9, 38 Stat. 275; May 26, 1922, ch. 202, § 1, 42 Stat. 596; June 7, 1924, ch. 352, 43 Stat. 657.	Section established the Federal Narcotics Control Board which was abolished by section 282b of Title 5, U. S. C., 1952 ed.
21	184	Feb. 9, 1909, ch. 100, § 8; Jan. 17, 1914, ch. 9, 38 Stat. 277; May 26, 1922, ch. 202, § 3, 42 Stat. 598.	Obsolete and superseded by sec. 1584 of title 19, U. S. C., 1952 ed. (sec. 584 of the Tariff Act of 1930).
21	188n	Dec. 11, 1942, ch. 720, § 15, 56 Stat. 1049.	Not necessary or appropriate in a revision. A separate section in the bill to enact this revision contains separability provisions with respect to the entire title.
21	191, 192	Feb. 23, 1887, ch. 210, §§ 1, 2, 24 Stat. 409.	Obsolete and superseded by 21 U. S. C., 1952 ed., §§ 173, 174, which are incorporated in sections 763 and 766 of this revision.
21	193	Feb. 23, 1887, ch. 210, § 3, 24 Stat. 409; June 25, 1948, ch. 646, § 5, 62 Stat. 936.	Obsolete because in the Treaty of Jan. 11, 1943, 57 Stat. 767, the United States relinquished extraterritorial rights in China.
21	201-215	Mar. 3, 1915, ch. 74, §§ 1-13, 38 Stat. 817-822.	Obsolete since the Treaty of Jan. 11, 1943, 57 Stat. 767, under which the United States relinquished extraterritorial rights in China.
21	333 note, 353 note	Oct. 26, 1951, ch. 578, § 3, 65 Stat. 649.	Executed and obsolete.
21	342 note, 343 note, 351 note, 352 note, 361 note, 362 note	June 23, 1939, ch. 242, §§ 1, 2, 53 Stat. 853, 854.	Executed and no longer necessary in view of the provisions of this revised title.
21	376 note	May 2, 1939, ch. 107, title I, § 1 (part), 53 Stat. 631.	Only the words "which section [section 376 of title 21 U. S. C., 1952 ed.] is hereby made immediately effective" are repealed by the bill to enact this revision. Such provision has been executed.
21	391	June 25, 1938, ch. 675, § 901, 52 Stat. 1059.	Section related to separability of provisions which is covered by a section of the bill to enact this revision.
21	392 note	June 25, 1938, ch. 675, § 902 (a) (c) (d), 52 Stat. 1059.	Provisions of these subsections have been executed.

TABLE 4.—OMITTED SECTIONS NOT REPEALED

Sections of title 21, U. S. C., 1952 ed., omitted from this revision but not repealed

U. S. C., 1946 ed.		Statutes at Large	Reasons for omission
Title	Section		
21	129	Mar. 4, 1917, ch. 179, 39 Stat. 1167; May 11, 1922, ch. 185, 42 Stat. 536; Feb. 26, 1923, ch. 119, 42 Stat. 1318; Apr. 2, 1924, ch. 81, § 1, 43 Stat. 40, and various subsequent Department of Agriculture Appropriation Acts.	Section derived from annual appropriation acts, and should not be enacted into permanent law by inclusion in this revision, in view of varying needs of the Department of Agriculture in connection with appropriations for the purposes named.
21	341 note	Apr. 15, 1954, ch. 143, § 3, 68 Stat. 55.	Section is of limited duration, applying only to public hearings begun prior to Apr. 15, 1954.

TABLE 5.—TRANSFERRED SECTIONS

Showing sections of title 21, U. S. C., 1952 edition, which are recommended for transfer to other titles of the United States Code

Section:	Transfer to title
20.....	7 or 15
21.....	7 or 15
22.....	7 or 15
23.....	7 or 15

TABLE 6.—CROSS REFERENCES FOR TITLE 21

Showing under specified sections and chapters of revised title 21, U. S. C., related subject matter in other sections and chapters of this title and other titles of the United States Code, 1952 edition

PART I. FOOD, DRUGS, COSMETICS, AND CAUSTIC POISONS

CHAPTER 3. FOOD, DRUGS, AND COSMETICS

Section 41

Definitions of food, drug, device, and cosmetic in provisions concerning false advertising, see section 55 of title 15.

Section 52

Adulterated, process or renovated butter, tax on, see section 2320 et seq. of title 26.

Oleomargarine, tax on importation, see sections 2300 and 2307 of title 26.

Section 57

Preservation of salmon for human consumption, see section 235 of title 48.

Section 59

Definition of oleomargarine and margarine for purposes of preventing unlawful competition, see section 55 (f) of title 15.

Section 60

Adulterated, process or renovated butter, tax on, see section 2320 et seq. of title 26.

Filled cheese, tax on, see section 2350 et seq. of title 26.

Oleomargarine, tax on importation, see sections 2300 and 2307 of title 26.

Section 71

Regulation of commerce in viruses, serums, toxins, and analogous products—

For human use, see section 262 of title 42, U. S. C.

For animal use, see chapter 57 of this revised title.

Section 111

Marking of imported articles, see sections 134 and 1304 of title 19.

CHAPTER 5. MILK AND CREAM

Milk handling orders, see section 608c of title 7.

Section 202

Inspection of dairy products for export, see section 512 of this title.

CHAPTER 9. CAUSTIC POISONS

Section 311

Insecticides, fungicides, economic poisons, etc., see section 135 et seq. of title 7.

Section 312

Mailing of poisonous articles, see section 1716 of title 18.

PART II. ANIMALS, POULTRY AND MEATS

CHAPTER 51. DEPARTMENT OF AGRICULTURE

Section 451

Bureau of Animal Industry, see sections 391-394 of title 7, Agriculture.

Packers and Stockyards Act, see section 181 et seq. of title 7, Agriculture.

CHAPTER 53. MEAT INSPECTION

Section 491

Imported meats, see section 1306 of title 19, U. S. C.

Section 497

Overtime pay of employees engaged in meat inspection, see section 394 of title 7.

Section 500

Purchase of tags, labels, etc., from meat inspection appropriations, see section 431 of title 7.

Section 502

Overtime pay of employees engaged in meat inspection, see section 394 of title 7.

Section 504

Travel expenses for meat inspection, see section 396 of title 7.

Section 512

Importation of milk and cream, see section 201 et seq. of this title.

CHAPTER 55. ANIMAL AND POULTRY DISEASE PREVENTION; TRANSPORTATION,
IMPORT AND EXPORT**Section 565**

Accommodations in vessels carrying export animals, see sections 466a, 466b of title 46, U. S. C.

Section 566

Imports from countries where rinderpest or foot-and-mouth disease exists, see section 1306 of title 19, U. S. C.

CHAPTER 57. SERUMS AND ANALOGOUS PRODUCTS

Section 611

Anti-hog-cholera serum and hog-cholera virus, regulation of marketing, see sections 851-855 of title 7, U. S. C.

Regulation of viruses, serums, toxins, and analogous products for human use, see section 262 of title 42, U. S. C.

PART III. NARCOTICS

CHAPTER 91. ADMINISTRATION

Section 711

Bureau of Narcotics, see sections 282-282c of title 5.

Harrison Anti-narcotic Act, regulating domestic sale or dispensing of narcotics, see sections 2550 et seq. and 3220 et seq. of title 26.

Narcotics—

Instruction as to effect of, see section 111 et seq. of title 20.

Taxation of, see section 2550 et seq. of title 26.

Transportation of contraband articles, see section 781 et seq. of title 49.

CHAPTER 93. NARCOTICS IMPORT AND EXPORT

Section 761

Advance of funds in connection with enforcement of provisions of this chapter, see section 529a of title 31.

Commissioner of Narcotics, appointment and duties, see sections 282-282c of title 5.

Section 765

Deportation of aliens convicted of violating narcotics laws, see sections 1251 (a) (11) and 1252 et seq. of Title 8, Aliens and Nationality.

Section 767

Exportation of narcotics to Pacific Islands, see section 969 of title 18.

TABLE 7.—POPULAR NAMES

Showing distribution of popular name acts in revised title 21, U. S. C.

Popular names	Section of revised title 21
Cattle Contagious Diseases Acts.....	551-574
Federal Caustic Poison Act.....	311-320
Federal Filled Milk Act.....	221-225
Federal Food, Drug, and Cosmetic Act.....	41-157
Federal Import Milk Act.....	201-207
Federal Import Tea Act.....	261-271
Meat Inspection Act.....	491-513, 565-573
Narcotic Drugs Import and Export Acts.....	761-772
Oleomargarine Tax Repeal Act of 1950.....	52, 58-60, 151
Opium Poppy Control Act of 1942.....	811-822

It is the opinion of the committee that it is necessary to dispense with the requirements of subsection (4) of rule XXIX of the Standing Rules of the Senate in order to expedite the business of the Senate.



83^D CONGRESS
2^D SESSION

Calendar No. 2530

H. R. 9728

[Report No. 2496]

IN THE SENATE OF THE UNITED STATES

JULY 7 (legislative day, JULY 2), 1954

Read twice and referred to the Committee on the Judiciary

AUGUST 18 (legislative day, AUGUST 5), 1954

Reported by Mr. BUTLER, with an amendment

[Omit the part in black brackets and insert the part printed in *italic*]

AN ACT

To revise, codify, and enact into law, title 21 of the United States Code, entitled “Food, Drugs, and Cosmetics”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [That title 21 of the United States Code, entitled “Food, Drugs, and Cosmetics”, is hereby revised, codified, and enacted into law, and may be cited as “Title 21, United States Code, § —”, as follows :

TITLE 21—FOOD, DRUGS, AND COSMETICS

PART	Sec.
I. FOOD AND DRUGS GENERALLY.....	1
II. ANIMALS, POULTRY AND MEATS.....	451
III. NARCOTICS	711

PART I—FOOD, DRUGS, AND COSMETICS
GENERALLY

CHAPTER	Sec.
1. FOOD AND DRUG ADMINISTRATION.....	1
3. FOOD, DRUGS, AND COSMETICS.....	41
5. MILK AND CREAM.....	201
7. TEA IMPORTATION	261
9. CAUSTIC POISONS.....	311

CHAPTER 1—FOOD AND DRUG ADMINISTRATION

Sec.
1. Establishment.
2. Functions of Secretary of Health, Education, and Welfare.
3. Board of Tea Experts.
4. Board of Tea Appeals.】

[§ 1. Establishment

The Food and Drug Administration shall continue as a constituent organization of the Department of Health, Education, and Welfare.

§ 2. Functions of Secretary of Health, Education, and Welfare

The Secretary of Health, Education, and Welfare shall perform the functions prescribed for him under Part I of this title, and may from time to time make such provisions as he deems appropriate authorizing the performance of any of the functions of the Secretary by any other officer, or by any agency or employee, of the Department.

§ 3. Board of Tea Experts

Before February 16 of each year, the Secretary of Health, Education, and Welfare shall appoint a Board of Tea Experts of seven members who are experts in teas, for a term of one year subject to removal by the Secretary. The Secretary shall fill vacancies by appointment for an unexpired term.

The Board shall appoint a presiding officer, who shall be the medium of all communications to or from the Board. Each member of the Board shall receive as compensation the sum of \$50 per annum, and necessary expenses in connection with his duties under this title, to be paid by the Secretary of Health, Education, and Welfare.

§ 4. Board of Tea Appeals

The United States Board of Tea Appeals shall consist of three employees of the Department of Health, Education, and Welfare designated by the Secretary of Health, Education, and Welfare.

CHAPTER 3—FOOD, DRUGS, AND COSMETICS**SUBCHAPTER I—DEFINITIONS, DETERMINATIONS, AND REPRESENTATIONS****Sec.**

- 41. Definitions.
- 42. Determination of misbranding.
- 43. Representation as antiseptic.
- 44. Short title.

SUBCHAPTER II—FOOD

- 51. Definitions and standards for food; procedure governing establishment; objections; hearings; applicability of other provisions.
- 52. Adulterated food.
- 53. Misbranded food.
- 54. Exemptions.
- 55. Tolerances for poisonous ingredients; certification of coal-tar colors for foods.
- 56. Emergency permit control.
- 57. Sea food; examination on request of packer; fees.
- 58. Colored oleomargarine; Congressional finding as to sale or serving.
- 59. Colored oleomargarine; sale in State where produced; packaging and labeling; service in restaurants.
- 60. Oleomargarine, butterine, imitation butter or cheese; application of State laws.
- 61. Exemption of meats and meat food products.】

【SUBCHAPTER III—DRUGS AND DEVICES

- 71. Adulterated drugs and devices.
- 72. Misbranded drugs and devices.
- 73. Exemptions.
- 74. Certification of coal-tar colors for drugs.
- 75. New drugs.
- 76. Certification of drugs containing insulin.
- 77. Certification of drugs containing certain antibiotics.

SUBCHAPTER IV—COSMETICS

- 91. Adulterated cosmetics.
- 92. Misbranded cosmetics.
- 93. Exemptions.
- 94. Certification of coal-tar colors for cosmetics.

SUBCHAPTER V—IMPORTS AND EXPORTS

- 111. Examination and refusal of imports.
- 112. Exports adulterated or misbranded.
- 113. Suspension of adulterated imports.

SUBCHAPTER VI—ADMINISTRATIVE PROVISIONS

- 131. Regulations; hearings; judicial review.
- 132. Examinations and investigations.
- 133. Records of interstate shipment.
- 134. Factory inspection; notice; reports; receipts for samples; copies of analyses.
- 135. Publicity.
- 136. Cost of certification of coal-tar colors.
- 137. Revision of Pharmacopeia; development of analyses and tests.

SUBCHAPTER VII—ENFORCEMENT AND PENALTIES

- 151. Prohibited acts.
- 152. Penalties; exemptions.
- 153. Injunctions.
- 154. Libel for condemnation.
- 155. Hearing before violation reported.
- 156. Report of minor violations.
- 157. Proceedings in name of United States; subpenas.

SUBCHAPTER I—DEFINITIONS, DETERMINATIONS, REPRESENTATIONS, AND SHORT TITLE

§ 41. Definitions

As used in this chapter—

(a) “Secretary” means the Secretary of Health, Education, and Welfare.

(b) “Department” means the Department of Health, Education, and Welfare.

(c) “Butter” means the food product usually known as butter, and which is made exclusively from milk or cream, or both, with or without common salt, and with or without additional coloring matter, and containing not less than 80 per centum by weight of milk fat, all tolerances having been allowed for.

(d) “Cosmetic” means articles other than soap, (1) intended to be applied to or introduced into the human body for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) intended for use as a component of any such articles.】

[(e) "Device", except when used in sections 42, 53 (f), 72 (c), 92 (c), and 151 (i) of this title, means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended (1) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or (2) to affect the structure or any function of the body of man or other animals.

(f) "Drug" means (1) articles recognized in an official compendium; and (2) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (3) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and (4) articles intended for use as a component of any article specified in clauses (1), (2), or (3) of this paragraph; but does not include devices or their components, parts, or accessories.

(g) "Food" means (1) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article.

(h) "Interstate commerce" means (1) commerce between any State or Territory and any place outside thereof, and (2) commerce within the District of Columbia or within any other Territory not organized with a legislative body.

(i) "Label" means a display of written, printed, or graphic matter upon the immediate container other than a package liner, of any article; and a requirement made by or under authority of this chapter that any word, statement, or other information appear on the label shall not be considered to be complied with unless it also appears on or is easily legible through the outside container or wrapper, if any there be, of the retail package of such article.

(j) "Labeling" means all labels and other written, printed, or graphic matter (1) upon any article or any of its containers or wrappers, or (2) accompanying such article.

(k) "New drug" means—

(1) Any drug the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety of drugs, as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof, unless at any time prior to June 25, 1938, it was subject to the Food and Drugs Act of June 30, 1906, as amended, and at such time its labeling contained the same representations concerning the conditions of its use; or]

[(2) Any drug the composition of which is such that, as a result of investigations to determine its safety for use under such conditions, it has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.

(l) "Nonfat dry milk solids" or "defatted milk solids" is the product resulting from the removal of fat and water from the sweet milk of cows, and containing (a) the lactose, milk proteins, and milk minerals in the same relative proportions as in the fresh milk from which made, (b) not over 5 per centum by weight of moisture, and (c) not over 1½ per centum by weight of fat content unless otherwise indicated.

(m) "Official compendium" means the official United States Pharmacopœia, official Homœopathic Pharmacopeia of the United States, official National Formulary, or any supplement to any of them.

(n) "Package" includes wrapped meats inclosed in papers or other materials as prepared by the manufacturers thereof for sale.

(o) "Person" means an individual, partnership, corporation, or association.

(p) "Territory" includes the District of Columbia and any Territory or possession of the United States, but not the Canal Zone.

§ 42. Determination of misbranding

If an article is alleged to be misbranded because the labeling is misleading, there shall be taken into account, among other things, in determining whether the labeling is misleading not only representations made or suggested by statement, word, design, device, or any combination thereof, but also the extent to which the labeling fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling relates under the conditions of use prescribed in the labeling thereof or under such conditions of use as are customary or usual.

§ 43. Representation as antiseptic

The representation of a drug, in its labeling, as an antiseptic shall constitute a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or for such other use as involves prolonged contact with the body.】

§ 44. Short title

This chapter may be cited as the "Federal Food, Drug, and Cosmetic Act".

SUBCHAPTER II—FOOD

§ 51. Definitions and standards for food; procedure governing establishment; objections; hearings; applicability of other provisions

(a) Whenever in the judgment of the Secretary such action will promote honesty and fair dealing in the interest of consumers, the Secretary shall promulgate regulations fixing and establishing for any food, under its common or usual name in so far as practicable, a reasonable definition and standard of identity, a reasonable standard of quality, and/or reasonable standards of fill of container.

The Secretary may not establish a definition and standard of identity or standard of quality for fresh or dried fruits, fresh or dried vegetables, or butter, but may establish definitions and standards of identity, relating only to maturity and to the effects of freezing, for avocados, cantaloupes, citrus fruits, and melons.

In prescribing any standard of fill of container, the Secretary shall give consideration to the natural shrinkage in storage and in transit of fresh natural food and to need for the necessary packing and protective material.

In prescribing any standard of quality for any canned fruit or canned vegetable, the Secretary shall give consideration to and make due allowance for the differing characteristics of the several varieties of such fruit or vegetable.

In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted, the Secretary shall, for the purpose of promoting honesty and fair dealing in the interest of consumers, designate the optional ingredients which shall be named on the label.

(b) (1) Any action under subsection (a) of this section for the issuance, amendment, or repeal of any regulation shall be begun by a proposal made (A) by the Secretary of his own initiative, or (B) by petition of any interested person, showing reasonable grounds therefor, filed with the Secretary. The Secretary shall publish the proposal and shall afford all interested persons an opportunity to present their views thereon, orally or in writing. As soon as practicable thereafter, the Secretary shall by order act upon such proposal and shall make such order public. Except as provided in paragraph (2) of this subsection the order shall become effective at such time as may be specified

[therein, but not prior to the day following the last day on which objections may be filed under such paragraph.

(2) At any time prior to the thirtieth day after the date on which an order entered under paragraph (1) of this subsection is made public, any person who will be adversely affected by such order if placed in effect may file objections thereto with the Secretary, specifying with particularity the provisions of the order deemed objectionable, stating the grounds therefor, and requesting a public hearing upon such objections. Until final action upon such objections is taken by the Secretary under paragraph (3) of this subsection, the filing of such objections shall operate to stay the effectiveness of those provisions of the order to which the objections are made. As soon as practicable after the time for filing objections has expired the Secretary shall publish a notice in the Federal Register specifying those parts of the order which have been stayed by the filing of objections and, if no objections have been filed, stating that fact.

(3) As soon as practicable after such request for a public hearing, the Secretary, after due notice, shall hold such a public hearing for the purpose of receiving evidence relevant and material to the issues raised by such objections. At the hearing, any interested person may be heard in person or by representative. As soon as practicable after completion of the hearing, the Secretary shall by order act upon such objections and make such order public. Such order shall be based only on substantial evidence of record at such hearing and shall set forth, as part of the order, detailed findings of fact on which the order is based. The Secretary shall specify in the order the date on which it shall take effect, except that it shall not be made to take effect prior to the ninetieth day after its publication unless the Secretary finds that emergency conditions exist necessitating an earlier effective date, in which event the Secretary shall specify in the order his findings as to such conditions. Such order shall be subject to the provisions of section 131 (f) and (g) of this title.

§ 52. Adulterated food

A food is deemed to be adulterated—

(a) POISONOUS, INSANITARY, ETC., INGREDIENTS.—(1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health unless the substance is not an added substance and its quantity in such food does not ordinarily render it injurious to health; or (2) if it bears or contains any added poisonous or added deleterious substance which is unsafe within the meaning of section 55 of this title; or (3) if it consists in whole or]

【in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for food; or (4) if it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth or whereby it may have been rendered injurious to health; or (5) if it is, in whole or in part, the product of a diseased animal or of an animal which has died otherwise than by slaughter; or (6) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

(b) **ABSENCE, SUBSTITUTION, OR ADDITION OF CONSTITUENTS.**—

(1) If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or (2) if any substance has been substituted wholly or in part therefor; or (3) if damage or inferiority has been concealed in any manner; or (4) if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

(c) **UNCERTIFIED COAL-TAR COLORING.**—If it bears or contains a coal-tar color other than one from a batch that has been certified in accordance with regulations as provided by section 55 of this title. This paragraph does not apply to citrus fruit bearing or containing a coal-tar color where application for listing of such color has been made under this chapter but not acted on by the Secretary, if such color was commonly used prior to June 25, 1938, for the purpose of coloring citrus fruit.

(d) **CONFECTIONERY CONTAINING ALCOHOL OR NONNUTRITIVE SUBSTANCE.**—If it is confectionery, and it bears or contains any alcohol or nonnutritive article or substance except harmless coloring, harmless flavoring, harmless resinous glaze not in excess of four-tenths of 1 per centum, natural gum, and pectin. This paragraph does not apply to any confectionery by reason of its containing less than one-half of 1 per centum by volume of alcohol derived solely from the use of flavoring extracts, or to any chewing gum by reason of its containing harmless nonnutritive masticatory substances.

(e) **INSANITARY INGREDIENTS IN OLEOMARGARINE OR BUTTER.**—If it is oleomargarine or margarine or butter and any of the raw material used therein consisted in whole or in part of any filthy, putrid, or decomposed substance, or such oleomargarine or margarine or butter is otherwise unfit for food.】

§ 53. Misbranded food

A food is deemed to be misbranded—

(a) FALSE OR MISLEADING LABELING.—If its labeling is false or misleading in any particular.

(b) OFFER FOR SALE UNDER ANOTHER NAME.—If it is offered for sale under the name of another food.

(c) IMITATION.—If it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word “imitation” and, immediately thereafter, the name of the food imitated.

(d) MISLEADING CONTAINER.—If its container is so made, formed, or filled as to be misleading.

(e) PACKAGE FORM.—If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count. Under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary.

(f) PROMINENCE OF INFORMATION ON LABEL.—If any word, statement, or other information required by or under authority of this chapter to appear on the label or labels is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(g) REPRESENTATION AS TO IDENTITY.—If it purports to be or is represented as a food for which a definition and standard of identity has been prescribed by regulations as provided by section 51 of this title, unless (1) it conforms to such definition and standard, and (2) its label bears the name of the food specified in the definition and standard, and, insofar as required by such regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such food.

(h) REPRESENTATION AS TO QUALITY AND FILL OF CONTAINER.—If it purports to be or is represented as—

(1) a food for which a standard of quality has been prescribed by regulations as provided by section 51 of this title, and its quality falls below such standard, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard; or

[(2) a food for which a standard or standards of fill of container has been prescribed by regulations as provided by section 51 of this title, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard.

(i) LABEL WHERE NO REPRESENTATION AS TO STANDARD OF IDENTITY.—If it is not subject to the provisions of paragraph (g) of this section unless its label bears (1) the common or usual name of the food, if any there be, and (2) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavoring, and colorings without naming each. The Secretary shall promulgate regulations establishing exemptions to the extent that compliance with the requirements of clause (2) of this paragraph is impracticable, or results in deception or unfair competition.

(j) REPRESENTATION FOR SPECIAL DIETARY USE.—If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the Secretary by regulations prescribes as necessary in order fully to inform purchasers as to its value for such uses.

(k) ARTIFICIAL FLAVORING, ETC.; EXCEPTION OF ARTICLES FROM (g), (i), AND (k).—If it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact. The Secretary shall promulgate regulations establishing exemptions to the extent that compliance with the requirements of this paragraph is impracticable. The provisions of this paragraph and paragraphs (g) and (i) of this section with respect to artificial coloring shall not apply in the case of butter, cheese, or ice cream.

§ 54. Exemptions

The Secretary shall promulgate regulations exempting from any labeling requirement of this chapter (1) small open containers of fresh fruits and fresh vegetables and (2) food which is, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such food is not adulterated or misbranded under the provisions of this chapter upon removal from such processing, labeling, or repacking establishment.]

§ 55. Tolerances for poisonous ingredients; certification of coal-tar colors for foods

(a) Any poisonous or deleterious substance added to any food, except where such substance is required in the production thereof or cannot be avoided by good manufacturing practice, shall be deemed to be unsafe for purposes of the application of clause (2) of section 52 (a) of this title. When such substance is so required or cannot be so avoided, the Secretary shall promulgate regulations limiting the quantity therein or thereon to the extent the Secretary finds necessary for the protection of public health, and any quantity exceeding the limits so fixed shall also be deemed to be unsafe for purposes of the application of clause (2) of section 52 (a) of this title. While such a regulation is in effect limiting the quantity of any such substance in the case of any food, such food shall not, by reason of bearing or containing any added amount of such substance, be considered to be adulterated within the meaning of clause (1) of section 52 (a) of this title. In determining the quantity of such added substance to be tolerated in or on different articles of food, the Secretary shall take into account the extent to which the use of such substance is required or cannot be avoided in the production of each such article and the other ways in which the consumer may be affected by the same or other poisonous or deleterious substances.

(b) The Secretary shall promulgate regulations providing for the listing of coal-tar colors which are harmless and suitable for use in food and for the certification of batches of such colors, with or without harmless diluents.

§ 56. Emergency permit control

(a) Whenever the Secretary finds after investigation that the distribution in interstate commerce of any class of food may, by reason of contamination with micro-organisms during the manufacture, processing, or packing thereof in any locality, be injurious to health, and that the injurious nature cannot be adequately determined after the articles have entered interstate commerce, the Secretary then, and in such case only, shall promulgate regulations providing for the issuance, to manufacturers, processors, or packers of such class of food in such locality, of permits to which shall be attached such conditions governing the manufacture, processing, or packing of such class of food, for the period of time necessary to protect the public health. After the effective date of such regulations, and during such period, no person shall introduce or deliver for introduction into interstate commerce any such

Food unless such manufacturer, processor, or packer holds a permit issued by the Secretary as provided by such regulations.

(b) The Secretary may suspend immediately upon notice any permit issued under authority of this section if it is found that any of the conditions of the permit have been violated. The holder of a permit so suspended may at any time apply for the reinstatement thereof and the Secretary shall, immediately after prompt hearing and an inspection of the establishment, reinstate such permit if it is found that adequate measures have been taken to comply with and maintain the conditions of the permit as originally issued or as amended.

(c) Any officer or employee designated by the Secretary shall have access to any factory or establishment, the operator of which holds a permit from the Secretary, for the purpose of ascertaining whether the conditions of the permit are being complied with. If access for such inspection is denied, the Secretary may suspend the permit until such access is freely given by the operator.

§ 57. Sea food; examination on request of packer; fees

(a) Upon application of any packer of sea food for shipment or sale within the jurisdiction of this chapter, the Secretary may designate inspectors to examine and inspect such food and the production, packing, and labeling thereof. If on such examination and inspection compliance is found with the provisions of this chapter and regulations promulgated thereunder, the applicant shall be authorized or required to mark the food as provided by regulation to show such compliance. The Secretary may promulgate regulations governing the sanitary and other conditions under which the service herein provided shall be granted and maintained, and for otherwise carrying out the purposes of this section.

(b) Services under this section shall be rendered only upon payment by the applicant of fees fixed by regulation in amounts necessary to provide, equip, and maintain an adequate and efficient inspection service. Receipts from such fees shall be covered into the Treasury and shall be available to the Secretary for expenditures incurred in carrying out the purposes of this section, including salaries of additional inspectors when necessary to supplement the number for whose salaries Congress has appropriated.

§ 58. Colored oleomargarine; Congressional finding as to sale or serving

The Congress finds and declares that the sale, or the serving in public eating places, of colored oleomargarine or colored margarine without clear identification as such or which is otherwise adulterated]

For misbranded within the meaning of this chapter depresses the market in interstate commerce for butter and for oleomargarine or margarine clearly identified and neither adulterated nor misbranded, and constitutes a burden on interstate commerce in such articles. Such burden exists, irrespective of whether such oleomargarine or margarine originates from an interstate source or from the State in which it is sold.

§ 59. Colored oleomargarine; sale in State where produced; packaging and labeling; service in restaurants

(a) Colored oleomargarine or colored margarine which is sold in the same State or Territory in which it is produced shall be subject in the same manner and to the same extent to the provisions of this chapter as if it had been introduced in interstate commerce.

(b) No person shall sell, or offer for sale, colored oleomargarine or colored margarine unless—

(1) such oleomargarine or margarine is packaged;

(2) the net weight of the contents of any package sold in a retail establishment is one pound or less;

(3) there appears on the label of the package (A) the word “oleomargarine” or “margarine” in type or lettering at least as large as any other type or lettering on such label and (B) a full and accurate statement of all the ingredients contained in such oleomargarine or margarine; and

(4) each part of the contents of the package is contained in a wrapper which bears the word “oleomargarine” or “margarine” in type or lettering not smaller than 20-point type.

The requirements of this subsection shall be in addition to and not in lieu of any of the other requirements of this chapter.

(c) No person shall possess in a form ready for serving colored oleomargarine or colored margarine at a public eating place unless a notice that oleomargarine or margarine is served is displayed prominently and conspicuously in such place and in such manner as to render it likely to be read and understood by the ordinary individual being served in such eating place or is printed or is otherwise set forth on the menu in type or lettering not smaller than that normally used to designate the serving of other food items. No person shall serve colored oleomargarine or colored margarine at a public eating place, whether or not any charge is made therefor, unless (1) each separate serving bears or is accompanied by labeling identifying it as oleomargarine or margarine, or (2) each separate serving thereof is triangular in shape.】

[(d) If colored oleomargarine or colored margarine complies with the requirements of subsection (b) of this section when served with meals at a public eating place, it shall, at the time of such service, be exempt from the requirements of section 53 of this title, except subsections (a) and (f) of such section.

(e) For the purposes of this section, colored oleomargarine or colored margarine is oleomargarine or margarine having a tint or shade containing more than one and six-tenths degrees of yellow, or of yellow and red collectively, but with an excess of yellow over red, measured in terms of the Lovibond tintometer scale or its equivalent, and the term "oleomargarine" or "margarine" includes—

(1) all substances, mixtures, and compounds known as oleomargarine or margarine;

(2) all substances, mixtures, and compounds which have a consistence similar to that of butter and which contain any edible oils or fats other than milk fat if made in imitation or semblance of butter.

§ 60. Oleomargarine, butterine, imitation butter or cheese; application of State laws

(a) Nothing in this chapter or sections 45 and 55 of Title 15 shall be construed as authorizing the possession, sale, or serving of colored oleomargarine, or colored margarine in any State or Territory in contravention of the laws of such State or Territory.

(b) All articles known as oleomargarine, butterine, imitation, process, renovated, or adulterated butter, or imitation cheese, or any substance in the semblance of butter or cheese not the usual product of the dairy and not made exclusively of pure and unadulterated milk or cream, transported into any State or Territory or the District of Columbia, and remaining therein for use, consumption, sale, or storage therein, shall, upon the arrival within the limits therein be subject to the operation and effect of the laws thereof enacted in the exercise of its police powers to the same extent and in the same manner as though such articles or substances had been produced therein, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise.

§ 61. Exemption of meats and meat food products

Meats and meat food products are exempt from the provisions of this chapter to the extent of the application or the extension thereto of sections 491–510 of this title.】

[SUBCHAPTER III—DRUGS AND DEVICES]

§ 71. Adulterated drugs and devices

(a) POISONOUS, INSANITARY, ETC., INGREDIENTS.—

A drug or device is deemed to be adulterated—

(1) If it consists in whole or in part of any filthy, putrid, or decomposed substance; or

(2) if it has been prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth or whereby it may have been rendered injurious to health; or

(3) if it is a drug and its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or

(4) if it is a drug and bears or contains, for purposes of coloring only, a coal-tar color other than one from a batch that has been certified in accordance with regulations as provided by section 74 of this title.

(b) **STRENGTH, QUALITY, OR PURITY DIFFERING FROM OFFICIAL COMPENDIUM.**—If it purports to be or is represented as a drug the name of which is recognized in an official compendium, and its strength differs from, or its quality or purity falls below, the standard set forth in such compendium, determined in accordance with the tests or methods of assay set forth in such compendium. Whenever tests or methods of assay have not been prescribed in such compendium, or, if prescribed, are, in the judgment of the Secretary, insufficient for the making of such determination, the Secretary shall notify the appropriate body charged with the revision of such compendium, and if such body fails within a reasonable time to prescribe tests or methods of assay which, in the judgment of the Secretary, are sufficient for purposes of this paragraph, he shall promulgate regulations prescribing appropriate tests or methods of assay in accordance with which such determination as to strength, quality, or purity shall be made. No drug defined in an official compendium shall be deemed to be adulterated under this paragraph because it differs from the standard of strength, quality, or purity therefor set forth in such compendium, if its difference in strength, quality, or purity from such standard is plainly stated on its label. A drug recognized in both the United States Pharmacopœia and the Homœopathic Pharmacopœia of the United States shall be subject to the requirements of the United States Pharmacopœia unless it is labeled and offered for sale as a homœopathic drug, in which case it shall be subject to the provisions of the Homœopathic Pharmacopœia of the United States.】

[(c) MISREPRESENTATION OF STRENGTH, ETC., WHERE DRUG IS UNRECOGNIZED IN COMPENDIUM.—If it is not subject to the provisions of paragraph (b) of this section and its strength differs from, or its purity or quality falls below, that which it purports or is represented to possess.

(d) MIXTURE WITH OR SUBSTITUTION OF ANOTHER SUBSTANCE.—If it is a drug and any substance has been (1) mixed or packed therewith so as to reduce its quality or strength or (2) substituted wholly or in part therefor.

§ 72. Misbranded drugs and devices

A drug or device is deemed to be misbranded—

(a) FALSE OR MISLEADING LABELING.—If its labeling is false or misleading in any particular.

(b) PACKAGE FORM; CONTENTS OF LABEL.—If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count. Under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary.

(c) PROMINENCE OF INFORMATION ON LABEL.—If any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(d) HABIT-FORMING SUBSTANCE.—If it is for use by man and contains any quantity of the narcotic or hypnotic substance alpha eucaine, barbituric acid, betaeucaine, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, marihuana, morphine, opium, paraldehyde, peyote, or sulphonmethane; or any chemical derivative of such substance, which derivatives the Secretary, after investigation, finds to be, and by regulations designates as, habit forming; unless its label bears the name and quantity or proportion of such substance or derivative and in juxtaposition therewith the statement "Warning—May be habit forming."

(e) DESIGNATION OF DRUG BY NAME NOT IN COMPENDIUM.—If it is a drug not designated solely by a name recognized in an official compendium unless its label bears (1) the common or usual name of the drug, if such there be; and (2), in case it is fabricated]

[from two or more ingredients, the common or usual name of each active ingredient, including the quantity, kind, and proportion of any alcohol, and also including, whether active or not, the name and quantity or proportion of any bromides, ether, chloroform, acetanilid, acetphenetidin, amidopyrine, antipyrine, atropine, hyoscine, hyoscyamine, arsenic, digitalis, digitalis glucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or any derivative or preparation of any such substances, contained therein. The Secretary shall promulgate regulations establishing exemptions to the extent that compliance with the requirements of clause (2) of this paragraph is impracticable.

(f) **DIRECTIONS FOR USE AND WARNINGS ON LABEL.**—Unless its labeling bears (1) adequate directions for use; and (2) adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in such manner and form as are necessary for the protection of users. Where any requirement of clause (1) of this paragraph, as applied to any drug or device, is not necessary for the protection of the public health, the Secretary shall promulgate regulations exempting such drug or device from such requirement.

(g) **REPRESENTATION AS RECOGNIZED DRUG; PACKING AND LABELING.**—If it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed therein. The Secretary may consent to a modification of the method of packing. A drug recognized in both the United States Pharmacopœia and the Homœopathic Pharmacopœia of the United States shall be subject to the requirements of the United States Pharmacopœia with respect to packaging and labeling unless it is labeled and offered for sale as a homœopathic drug, in which case it shall be subject to the provisions of the Homœopathic Pharmacopœia of the United States.

(h) **DETERIORATIVE DRUGS; PACKING AND LABELING.**—If it has been found by the Secretary to be a drug liable to deterioration, unless it is packaged in such form and manner, and its label bears a statement of such precautions, as the Secretary by regulations requires as necessary for the protection of the public health. The Secretary shall not establish such a regulation for any drug recognized in an official compendium until the Secretary has informed the body charged with the revision of such compendium of the need for such packaging or label-]

ing requirements and such body has failed within a reasonable time to prescribe such requirements.

(i) **DRUG; MISLEADING CONTAINER; IMITATION; OFFER FOR SALE UNDER ANOTHER NAME.**—(1) If it is a drug and its container is so made, formed, or filled as to be misleading; or (2) if it is an imitation of another drug; or (3) if it is offered for sale under the name of another drug.

(j) **HEALTH-ENDANGERING WHEN USED AS PRESCRIBED.**—If it is dangerous to health when used in the dosage, or with the frequency or duration prescribed, recommended, or suggested in the labeling thereof.

(k) **INSULIN NOT PROPERLY CERTIFIED.**—If it is, or purports to be, or is represented as a drug composed wholly or partly of insulin, unless (1) it is from a batch with respect to which a certificate or release has been issued pursuant to section 76 of this title, and (2) such certificate or release is in effect with respect to such drug.

(l) **OTHER DRUGS NOT PROPERLY CERTIFIED.**—If it is, or purports to be, or is represented as a drug composed wholly or partly of any kind of penicillin, streptomycin, chlortetracycline, chloramphenicol, or bacitracin, or any derivative thereof, unless (1) it is from a batch with respect to which a certificate or release has been issued pursuant to section 77 of this title, and (2) such certificate or release is in effect with respect to such drug. This subsection does not apply to any drug or class of drugs exempted by regulations promulgated under section 77 (c) or (d) of this title.

§ 73. Exemptions

(a) The Secretary shall promulgate regulations exempting from any labeling or packing requirement of this chapter drugs and devices which are, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such drugs and devices are not adulterated or misbranded under the provisions of this chapter upon removal from such processing, labeling, or repacking establishment.

(b) (1) A drug intended for use by man which—

(A) is a habit-forming drug to which section 72 (d) of this title applies; or

(B) because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use, is not safe for use except under the supervision of a practitioner licensed by law to administer such drug; or

[(C) is limited by an effective application under section 75 of this title to use under the professional supervision of a practitioner licensed by law to administer such drug, shall be dispensed only (i) upon a written prescription of a practitioner licensed by law to administer such drug, or (ii) upon an oral prescription of such practitioner which is reduced promptly to writing and filed by the pharmacist, or (iii) by refilling any such written or oral prescription if such refilling is authorized by the prescriber either in the original prescription or by oral order which is reduced promptly to writing and filed by the pharmacist. The act of dispensing a drug contrary to the provisions of this paragraph is deemed to be an act which results in the drug being misbranded while held for sale.

(2) A drug dispensed by filling or refilling a written or oral prescription of a practitioner licensed by law to administer such drug is exempt from the requirements of section 72 of this title, except paragraphs (a), (i) (2) and (3), (k) and (l) of such section, and the packaging requirements of paragraphs (g) and (h) of such section, if the drug bears a label containing the name and address of the dispenser, the serial number and date of the prescription or of its filling, the name of the prescriber, and, if stated in the prescription, the name of the patient, and the directions for use and cautionary statements, if any, contained in such prescription. This exemption does not apply to any drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail, or to a drug dispensed in violation of paragraph (1) of this subsection.

(3) The Secretary may by regulation remove drugs subject to sections 72 (d) and 75 of this title from the requirements of paragraph (1) of this subsection when such requirements are not necessary for the protection of the public health.

(4) A drug which is subject to paragraph (1) of this subsection is deemed to be misbranded if at any time prior to dispensing its label fails to bear the statement "Caution: Federal law prohibits dispensing without prescription". A drug to which paragraph (1) of this subsection does not apply is deemed to be misbranded if at any time prior to dispensing its label bears the caution statement quoted in the first sentence of this paragraph.

(5) Nothing in this subsection shall be construed to relieve any person from any requirement prescribed by or under authority of law with respect to drugs now included or which may hereafter be]

[included within the classifications stated in section 3220 of the Internal Revenue Code, or to marihuana as defined in section 3238 (b) of the Internal Revenue Code.

§ 74. Certification of coal-tar colors for drugs

The Secretary shall promulgate regulations providing for the listing of coal-tar colors which are harmless and suitable for use in drugs for purposes of coloring only and for the certification of batches of such colors, with or without harmless diluents.

§ 75. New drugs

(a) **NECESSITY OF EFFECTIVE APPLICATION.**—No person shall introduce or deliver for introduction into interstate commerce any new drug, unless an application filed pursuant to subsection (b) of this section is effective with respect to such drug.

(b) **FILING APPLICATION.**—Any person may file with the Secretary an application with respect to any drug subject to subsection (a) of this section, which application shall include (1) full reports of investigations which have been made to show whether such drug is safe for use; (2) a full list of the articles used as components of such drug; (3) a full statement of the composition of such drug; (4) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such drug; (5) samples of such drug and of the articles used as components thereof as the Secretary may require; and (6) specimens of the labeling proposed to be used for such drug.

(c) **EFFECTIVE DATE OF APPLICATION.**—An application provided for in subsection (b) of this section shall become effective on the sixtieth day after the filing thereof unless prior to such day the Secretary by written notice to the applicant postpones the effective date of the application to such time, not more than one hundred and eighty days after the filing thereof, as he deems necessary to enable him to study and investigate the application.

(d) **GROUND FOR REFUSING APPLICATION TO BECOME EFFECTIVE.**—Prior to the effective date of the application, the Secretary shall issue an order refusing to permit the application to become effective if he finds, after due notice to the applicant and giving him an opportunity for a hearing, that (1) the investigations reported pursuant to subsection (b) of this section do not include adequate tests by all methods reasonably applicable to show whether such drug is safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof; (2) the results of such tests show that such

[drug is unsafe for use under such conditions or do not show that such drug is safe for use under such conditions; (3) the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such drug are inadequate to preserve its identity, strength, quality, and purity; or (4) upon the basis of the information submitted to him as part of the application, or other information before him with respect to such drug, he has insufficient information to determine whether such drug is safe for use under such conditions.

(e) **SUSPENSION OF EFFECTIVENESS OF APPLICATION.**—The Secretary shall order the suspension of the effectiveness of an application with respect to any drug after due notice and opportunity for hearing to the applicant, if he finds (1) that clinical experience, tests by new methods, or tests by methods not deemed reasonably applicable when such application became effective show that such drug is unsafe for use under the conditions of use upon the basis of which the application became effective, or (2) that the application contains any untrue statement of a material fact. The order shall state the findings upon which it is based.

(f) **REVOCATION OF ORDER REFUSING EFFECTIVENESS.**—When the Secretary finds that the facts so require he shall revoke an order refusing to permit an application with respect to a drug to become effective.

(g) **SERVICE OF ORDERS.**—Orders of the Secretary issued under this section shall be served (1) in person by any officer or employee of the Department designated by the Secretary or (2) by registered mail addressed to the applicant or respondent at his last-known address in the records of the Secretary.

(h) **APPEAL FROM ORDER.**—The applicant may appeal from an order of the Secretary refusing to permit the application to become effective, or suspending the effectiveness of the application by filing in the United States district court within any district wherein such applicant resides or has his principal place of business, or in the United States District Court for the District of Columbia, within sixty days after the entry of the order, a written petition praying that the order of the Secretary be set aside. The applicant shall serve a copy of the petition forthwith upon the Secretary, or upon any officer designated by him for that purpose, and thereupon the Secretary shall certify and file in the court a transcript of the record upon which the order complained of was entered. Upon the filing of such transcript the court shall have exclusive jurisdiction to affirm or set aside such order. The court shall

[not consider an objection to the order of the Secretary unless such objection was urged before the Secretary or unless there were reasonable grounds for failure so to do. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive. If any person applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence to be taken before the Secretary and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court seems proper. The Secretary may modify his findings as to the facts by reason of the additional evidence so taken, and he shall file with the court such modified findings which, if supported by substantial evidence, shall be conclusive, and his recommendations, if any, for the setting aside of the original order. The judgment and decree of the court affirming or setting aside any such order of the Secretary shall be final, subject to review as provided in sections 1254 and 1291–1294 of Title 28. The commencement of proceedings under this subsection shall not, unless specifically ordered by the court to the contrary, operate as a stay of the Secretary's order.

(i) **EXEMPTION OF DRUGS FOR RESEARCH.**—The Secretary shall promulgate regulations for exempting from the operation of this section drugs intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety of drugs.

§ 76. Certification of drugs containing insulin

(a) The Secretary, pursuant to regulations promulgated by the Secretary, shall provide for the certification of batches of drugs composed wholly or partly of insulin. A batch of any such drug shall be certified only if such drug has such characteristics of identity and such batch has such characteristics of strength, quality, and purity, as the Secretary prescribes in such regulations as necessary adequately to insure safety and efficacy of use. Prior to the effective date of such regulations the Secretary, in lieu of certification, shall issue a release for any batch which, in his judgment, may be released without risk as to the safety and efficacy of its use. Such release shall prescribe the date of its expiration and other conditions under which it shall cease to be effective as to such batch and as to portions thereof.】

[(b) Regulations providing for such certifications shall contain such provisions as are necessary to carry out the purposes of this section, including provisions prescribing (1) standards of identity and of strength, quality, and purity; (2) tests and methods of assay to determine compliance with such standards; (3) effective periods for certificates, and other conditions under which they shall cease to be effective as to certified batches and as to portions thereof; (4) administration and procedure; and (5) such fees, specified in such regulations, as are necessary to provide, equip, and maintain an adequate certification service. Such regulations shall prescribe no standard of identity or of strength, quality, or purity for any drug different from the standard of identity, strength, quality, or purity set forth for such drug in an official compendium.

(c) Such regulations, insofar as they prescribe tests or methods of assay to determine strength, quality, or purity of any drug, different from the tests or methods of assay set forth for such drug in an official compendium, shall be prescribed, after notice and opportunity for revision of such compendium, in the manner provided in the second sentence of section 71 (b) of this title. The provisions of subsections (e), (f), and (g) of section 131 of this title shall be applicable to such portion of any regulation as prescribes any such different test or method, but shall not be applicable to any other portion of any such regulation.

§ 77. Certification of drugs containing certain antibiotics

(a) REGULATIONS FOR CERTIFICATION.—The Secretary, pursuant to regulations promulgated by the Secretary, shall provide for the certification of batches of drugs composed wholly or partly of any kind of penicillin, streptomycin, chlortetracycline, chloramphenicol, or bacitracin, or any derivative of any of them. A batch of any such drug shall be certified only if such drug has such characteristics of identity and such batch has such characteristics of strength, quality, and purity, as the Secretary prescribes in such regulations as necessary adequately to insure safety and efficacy of use. Prior to the effective date of such regulations the Secretary, in lieu of certification, shall issue a release for any batch which, in the Secretary's judgment, may be released without risk as to the safety and efficacy of its use. Such release shall prescribe the date of its expiration and other conditions under which it shall cease to be effective as to such batch and as to portions thereof.

(b) PROVISIONS OF REGULATIONS.—Regulations providing for such]

【certifications shall contain such provisions as are necessary to carry out the purposes of this section, including provisions prescribing (1) standards of identity and of strength, quality, and purity; (2) tests and methods of assay to determine compliance with such standards; (3) effective periods for certificates, and other conditions under which they shall cease to be effective as to certified batches and as to portions thereof; (4) administration and procedure; and (5) such fees, specified in such regulations, as are necessary to provide, equip, and maintain an adequate certification service. Such regulations shall prescribe only such tests and methods of assay as will provide for certification or rejection within the shortest time consistent with the purposes of this section.

(c) **EXEMPTION OF DRUGS NOT INVOLVING SAFETY AND EFFICACY OF USE.**—Whenever in the judgment of the Secretary, the requirements of this section and of section 72 (l) of this title with respect to any drug or class of drugs are not necessary to insure safety and efficacy of use, the Secretary shall promulgate regulations exempting such drug or class of drugs from such requirements.

(d) **OTHER EXEMPTIONS.**—The Secretary shall promulgate regulations exempting from any requirement of this section and of section 72 (l) of this title, (1) drugs which are to be stored, processed, labeled, or repacked at establishments other than those where manufactured, on condition that such drugs comply with all such requirements upon removal from such establishments; (2) drugs which conform to applicable standards of identity, strength, quality, and purity prescribed by these regulations and are intended for use in manufacturing other drugs; and (3) drugs which are intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety and efficacy of drugs.

(e) **APPLICATION OF OTHER SECTIONS; DETERMINATION OF COMPLIANCE.**—No drug which is subject to this section shall be subject to section 75 of this title. Compliance of any drug subject to this section or to section 72 (l) of this title with sections 71 (b) and 72 (g) of this title shall be determined by the application of the standards of strength, quality, and purity, the tests and methods of assay, and the requirements of packaging and labeling, respectively, prescribed by regulations promulgated under this section.

(f) **PROCEDURE FOR ISSUANCE, AMENDMENT, OR REPEAL OF REGULATIONS.**—Any interested person may file with the Secretary a petition proposing the issuance, amendment, or repeal of any regulation con-】

templated by this section. The petition shall set forth the proposal in general terms and shall state reasonable grounds therefor. The Secretary shall give public notice of the proposal and an opportunity for all interested persons to present their views thereon, orally or in writing, and as soon as practicable thereafter shall make public the Secretary's action upon such proposal. At any time prior to the thirtieth day after such action is made public any interested person may file objections to such action, specifying with particularity the changes desired, stating reasonable grounds therefor, and requesting a public hearing upon such objections. The Secretary shall thereupon, after due notice, hold such public hearing. As soon as practicable, after completion of the hearing, the Secretary shall by order make public the Secretary's action on such objections. The order shall be based only on substantial evidence of record at the hearing and shall include detailed findings of fact on which it is based. The order shall be subject to the provisions of section 131 (f) and (g) of this title.

SUBCHAPTER IV—COSMETICS

§ 91. Adulterated cosmetics

A cosmetic is deemed to be adulterated—

(a) If it bears or contains any poisonous or deleterious substance which may render it injurious to users under the conditions of use prescribed in the labeling thereof, or under such conditions of use as are customary or usual. This provision does not apply to coal-tar hair dye, the label of which bears the following legend conspicuously displayed thereon: "Caution—This product contains ingredients which may cause skin irritation on certain individuals and a preliminary test according to accompanying directions should first be made. This product must not be used for dyeing the eyelashes or eyebrows; to do so may cause blindness.", and the labeling of which bears adequate directions for such preliminary testing. For the purposes of this paragraph and paragraph (e) of this section the term "hair dye" does not include eyelash dyes or eyebrow dyes.

(b) If it consists in whole or in part of any filthy, putrid, or decomposed substance.

(c) If it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth or whereby it may have been rendered injurious to health.

(d) If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.】

[(e) If it is not a hair dye and it bears or contains a coal-tar color other than one from a batch that has been certified in accordance with regulations as provided by section 94 of this title.

§ 92. Misbranded cosmetics

A cosmetic is deemed to be misbranded—

(a) If its labeling is false or misleading in any particular.

(b) If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count. Under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary.

(c) If any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(d) If its container is so made, formed, or filled as to be misleading.

§ 93. Exemptions

The Secretary shall promulgate regulations exempting from any labeling requirement of this chapter cosmetics which are, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such cosmetics are not adulterated or misbranded under the provisions of this chapter upon removal from such processing, labeling, or repacking establishment.

§ 94. Certification of coal-tar colors for cosmetics

The Secretary shall promulgate regulations providing for the listing of coal-tar colors which are harmless and suitable for use in cosmetics and for the certification of batches of such colors, with or without harmless diluents.

SUBCHAPTER V—IMPORTS AND EXPORTS

§ 111. Examination and refusal of imports

(a) The Secretary of the Treasury shall deliver to the Secretary of Health, Education, and Welfare, upon the latter Secretary's request, samples of food, drugs, devices, and cosmetics which are being im-]

Imported or offered for import into the United States, giving notice thereof to the owner or consignee, who may appear before the Secretary of Health, Education, and Welfare and have the right to introduce testimony. If it appears from the examination of such samples or otherwise that the article (1) has been manufactured, processed, or packed under insanitary conditions, or (2) is forbidden or restricted in sale in the country in which it was produced or from which it was exported, or (3) is adulterated, misbranded, or in violation of section 75 of this title, the Secretary of the Treasury shall refuse to admit the article, except as provided in subsection (b) of this section. He shall cause the destruction of any such article refused admission unless it is exported, under regulations prescribed by him, within ninety days of the date of notice of such refusal or within such additional time permitted pursuant to such regulations. This subsection does not prohibit the admission of narcotic drugs the importation of which is permitted under section 763 of this title.

(b) Pending decision as to the admission of an article being imported or offered for import, the Secretary of the Treasury may authorize delivery of such article to the owner or consignee upon the execution by him of a good and sufficient bond providing for the payment of such liquidated damages in the event of default as may be required pursuant to regulations of the Secretary of the Treasury. If it appears to the Secretary of Health, Education, and Welfare that an article included within the provisions of clause (3) of subsection (a) of this section can, by relabeling or other action, be brought into compliance with this chapter or rendered other than a food, drug, device, or cosmetic, the Secretary of the Treasury may defer final determination as to admission of such article and, upon filing of timely written application by the owner or consignee and the execution by him of a bond as provided in the preceding provisions of this subsection, the Secretary of Health, Education, or Welfare may, in accordance with regulations, authorize the applicant to perform such relabeling or other action specified in such authorization (including destruction or export of rejected articles or portions thereof, as may be specified in the latter Secretary's authorization). All such relabeling or other action pursuant to such authorization shall in accordance with regulations be under the supervision of an officer or employee of the Department of Health, Education, and Welfare designated by the Secretary of that Department, or an officer or employee of the Department of the Treasury designated by the Secretary of the Treasury.】

[(c) The owner or consignee shall pay all expenses, including travel, per diem or subsistence, and salaries of officers or employees of the United States, determined in accordance with regulations, in connection with the destruction provided for in subsection (a) of this section and the supervision of the relabeling or other action authorized under subsection (b) of this section, and all expenses in connection with the storage, cartage, or labor with respect to any article refused admission under subsection (a) of this section. In default of payment, expenses specified in this subsection shall constitute a lien against any future importations made by such owner or consignee.

§ 112. Exports adulterated or misbranded

A food, drug, device, or cosmetic intended for export is not deemed to be adulterated or misbranded under this chapter if it (1) accords to the specifications of the foreign purchaser, (2) is not in conflict with the laws of the country to which it is intended for export, and (3) is labeled on the outside of the shipping package to show that it is intended for export. Such article sold or offered for sale in domestic commerce, is not exempt from any of the provisions of this chapter.

§ 113. Suspension of adulterated imports

Whenever the President is satisfied that there is good reason to believe that any importation is being made, or is about to be made, into the United States, from any foreign country, of any article used for human food or drink that is adulterated to an extent dangerous to the health or welfare of the people of the United States, or any of them, he may issue his proclamation suspending the importation of such articles from such country for such period of time as he believes necessary to prevent such importation. During such period no person shall import any of such articles into the United States from the countries designated in the proclamation of the President.

SUBCHAPTER VI—ADMINISTRATIVE PROVISIONS

§ 131. Regulations; hearings; judicial review

(a) **REGULATIONS AUTHORIZED.**—The Secretary may promulgate regulations for the efficient enforcement of this chapter, except as otherwise provided in this section.

(b) **IMPORTS AND EXPORTS.**—The Secretary of the Treasury and the Secretary of Health, Education, and Welfare shall jointly prescribe regulations for the efficient enforcement of the provisions of sections 111 and 112 of this title, except as otherwise provided therein, in such manner and to take effect at such time, after due notice, as the Secretary of Health, Education, and Welfare determines.】

[(c) CONDUCT OF HEARINGS.—The Secretary or such officer or employee as he designates shall conduct the hearings authorized or required by this chapter.

(d) STANDARDS OF IDENTITY IN OTHER LAWS.—The definitions and standards of identity promulgated in accordance with the provisions of this chapter shall be effective for the purposes of the enforcement of this chapter, notwithstanding such definitions and standards as may be contained in other laws of the United States and regulations promulgated thereunder.

(e) HEARINGS ON REGULATIONS.—The Secretary, on his own initiative or upon an application of any interested industry or substantial portion thereof stating reasonable grounds therefor, shall hold a public hearing upon a proposal to issue, amend, or repeal any regulation contemplated by sections 53 (j), 55 (a), 55 (b), 56 (a), 71 (b), 72 (d), 72 (h), 74, and 94 of this title.

The Secretary shall give appropriate notice of the hearing, setting forth the proposal in general terms and specifying the time and place for the hearing not less than thirty days after the date of the notice, except that the public hearing on regulations under section 56 (a) of this title may be held within a reasonable time, to be fixed by the Secretary, after notice thereof. At the hearing any interested person may be heard in person or by his representative. As soon as practicable after completion of the hearing, the Secretary shall by order make public his action in issuing, amending, or repealing the regulation or determining not to take such action. Such order shall be based only on substantial evidence of record at the hearing and shall include detailed findings of fact on which it is based. No such order shall take effect prior to the ninetieth day after it is issued, except that if the Secretary finds that emergency conditions exist necessitating an earlier effective date, then the Secretary shall specify in the order the Secretary's findings as to such conditions and the order shall take effect at such earlier date as the Secretary specifies.

(f) JUDICIAL REVIEW.—(1) In a case of actual controversy as to the validity of any order under subsection (e) of this section, any person who will be adversely affected by such order if placed in effect may at any time prior to the ninetieth day after such order is issued file a petition with the United States Court of Appeals for the circuit wherein such person resides or has his principal place of business, for a judicial review of such order. The summons and petition may be served at any place in the United States. The Secretary, promptly upon service of]

[the summons and petition, shall certify and file in the court the transcript of the proceedings and the record on which the Secretary based the order.

(2) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence, and evidence in rebuttal thereof, to be taken before the Secretary, and to be adduced upon the hearing, in such manner and upon such terms and conditions as the court deems proper. The Secretary may modify the Secretary's findings as to the facts, or make new findings, by reason of the additional evidence so taken, and file such modified or new findings, and the Secretary's recommendation, if any, for the modification or setting aside of the Secretary's original order, with the return of such additional evidence.

(3) The court may affirm the order, or set it aside in whole or in part, temporarily or permanently. If the order of the Secretary refuses to issue, amend, or repeal a regulation and such order is not in accordance with law the court shall by its judgment order the Secretary to take action, with respect to such regulation, in accordance with law. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive.

(4) The judgment of the court affirming or setting aside, in whole or in part, any such order of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of Title 28.

(5) Any action instituted under this subsection shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

(6) The remedies provided for in this subsection shall be in addition to, and not in substitution for, any other remedies provided by law.

(g) COPIES OF RECORDS OF HEARINGS.—The Secretary shall furnish a certified copy of the transcript of the record and proceedings under subsection (e) of this section to any interested party at his request, on payment of the costs thereof. Such copy shall be admissible in any criminal, libel for condemnation, exclusion of imports, or other proceeding arising under or in respect to this chapter, irrespective of whether proceedings with respect to the order have previously been instituted or become final under subsection (f) of this section.]

[§ 132. Examinations and investigations

(a) The Secretary may conduct examinations and investigations for the purposes of this chapter through officers and employees of the Department or through any health, food, or drug officer or employee of any State, Territory, or political subdivision thereof, duly commissioned by the Secretary as an officer of the Department. In the case of food packed in a Territory the Secretary shall attempt to make inspection of such food at the first point of entry within the United States when, in his opinion and with due regard to the enforcement of all the provisions of this chapter, the facilities at his disposal will permit of such inspection. For the purposes of this subsection the term "United States" means the States and the District of Columbia.

(b) Where a sample of a food, drug, or cosmetic is collected for analysis under this chapter, the Secretary shall, upon request provide a part of such official sample for examination or analysis by any person named on the label of the article, or the owner thereof, or his attorney or agent; except that the Secretary may, by regulations, make such reasonable exceptions from, and impose such reasonable terms and conditions relating to, the operation of this subsection as he finds necessary for the proper administration of the provisions of this chapter.

(c) For purposes of enforcement of this chapter, records of any department or independent establishment in the executive branch of the Government shall be open to inspection by any official of the Department of Health, Education, and Welfare authorized by the Secretary to make such inspection.

§ 133. Records of interstate shipment

For the purpose of enforcing the provisions of this chapter, carriers engaged in interstate commerce, and persons receiving food, drugs, devices, or cosmetics in interstate commerce or holding such articles so received, shall, upon the request of an officer or employee duly designated by the Secretary, permit him, at reasonable times, to have access to and to copy all records showing the movement in interstate commerce of any food, drug, device, or cosmetic, or the holding thereof during or after such movement, and the quantity, shipper, and consignee thereof. It shall be unlawful for any such carrier or person to fail to permit such access to and copying of any such record so requested when such request is accompanied by a statement in writing specifying the nature or kind of food, drug, device, or cosmetic to which such request]

[relates. Evidence obtained under this section shall not be used in a criminal prosecution of the person from whom it is obtained.

Carriers shall not be subject to the other provisions of this chapter by reason of their receipt, carriage, holding, or delivery of food, drugs, devices, or cosmetics in the usual course of business as carriers.

§ 134. Factory inspection; notice; reports; receipts for samples; copies of analyses

(a) For purposes of enforcement of this chapter, officers or employees duly designated by the Secretary, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, may (1) enter, at reasonable times, any factory, warehouse, or establishment in which food, drugs, devices, or cosmetics are manufactured, processed, packed, or held, for introduction into interstate commerce or are held after such introduction, or enter any vehicle being used to transport or hold such food, drugs, devices, or cosmetics in interstate commerce; and (2) inspect, at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, establishment, or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling therein. A separate notice shall be given for each such inspection, but a notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness.

(b) Upon completion of any such inspection of a factory, warehouse, or other establishment, and prior to leaving the premises, the officer or employee making the inspection shall give to the owner, operator, or agent in charge a report in writing setting forth any conditions or practices observed by him which, in his judgment, indicate that any food, drug, device, or cosmetic in such establishment (1) consists in whole or in part of any filthy, putrid, or decomposed substance, or (2) has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health. A copy of such report shall be sent promptly to the Secretary.

(c) If the officer or employee making any such inspection of a factory, warehouse, or other establishment has obtained any sample in the course of the inspection, upon completion of the inspection and prior to leaving the premises he shall give to the owner, operator, or agent in charge a receipt describing the samples obtained.

(d) Whenever in the course of any such inspection of a factory or

Other establishment where food is manufactured, processed, or packed, the officer or employee making the inspection obtains a sample of any such food, and an analysis is made of such sample for the purpose of ascertaining whether such food consists in whole or in part of any filthy, putrid, or decomposed substance, or is otherwise unfit for food, a copy of the results of such analysis shall be furnished promptly to the owner, operator, or agent in charge.

§ 135. Publicity

(a) The Secretary shall cause to be published from time to time reports summarizing all judgments, decrees, and court orders rendered under this chapter, including the nature of the charge and the disposition thereof.

(b) The Secretary may also cause to be disseminated information regarding food, drugs, devices, or cosmetics in situations involving, in the Secretary's opinion, imminent danger to health or gross deception of the consumer. Nothing in this section shall be construed to prohibit the Secretary from collecting, reporting, and illustrating the results of the investigations of the Department.

§ 136. Cost of certification of coal-tar colors

The admitting to listing and certification of coal-tar colors, in accordance with regulations prescribed under this chapter, shall be performed only upon payment of fees specified in such regulations, as may be necessary to provide, maintain, and equip an adequate service for such purposes.

§ 137. Revision of Pharmacopeia; development of analyses and tests

The Secretary, in carrying into effect the provisions of this chapter, may cooperate with associations and scientific societies in the revision of the United States Pharmacopeia and in the development of methods of analysis and mechanical and physical tests necessary to carry out the work of the Food and Drug Administration.

SUBCHAPTER VII—ENFORCEMENT AND PENALTIES

§ 151. Prohibited acts

The following acts and the causing thereof are prohibited:

(a) The introduction or delivery for introduction into interstate commerce of any food, drug, device, or cosmetic that is adulterated or misbranded.

(b) The adulteration or misbranding of any food, drug, device, or cosmetic in interstate commerce.】

[(c) The receipt in interstate commerce of any food, drug, device, or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise.

(d) The introduction or delivery for introduction into interstate commerce of any article in violation of section 56 or 75 of this title.

(e) The refusal to permit access to or copying of any record as required by section 133 of this title.

(f) The refusal to permit entry or inspection as authorized by section 134 of this title.

(g) The manufacture within any Territory of any food, drug, device, or cosmetic that is adulterated or misbranded.

(h) The giving of a guaranty or undertaking referred to in section 152 (c) (2) of this title which is false, except by a person who relied upon a guaranty or undertaking to the same effect signed by, and containing the name and address of, the person residing in the United States from whom he received in good faith the food, drug, device, or cosmetic; or the giving of a guaranty or undertaking referred to in section 152 (c) (3) of this title which guaranty or undertaking is false.

(i) Forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp, tag, label, or other identification device authorized or required by regulations promulgated under the provisions of sections 55 (b), 56, 57, 74, 76, 77, or 94 of this title.

(j) The using by any person to his own advantage, or revealing, other than to the Secretary or officers or employees of the Department, or to the courts when relevant in any judicial proceeding under this chapter, any information acquired under authority of sections 56, 75, 76, 77, or 134 of this title concerning any method or process which as a trade secret is entitled to protection.

(k) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to, a food, drug, device, or cosmetic, if such act is done while such article is held for sale (whether or not the first sale) after shipment in interstate commerce and results in such article being adulterated or misbranded.

(l) The using, on the labeling of any drug or in any advertising relating to such drug, of any representation or suggestion that an application with respect to such drug is effective under section 75 of this title, or that such drug complies with the provisions of such section.]

[(m) The sale or offering for sale of colored oleomargarine or colored margarine, or the possession or serving of colored oleomargarine or colored margarine in violation of subsection (b) or (c) of section 59 of this title.

(n) The using, in labeling, advertising, or other sales promotion, of any reference to any report or analysis furnished in compliance with section 134 of this title.

§ 152. Penalties; exemptions

(a) Any person who violates any of the provisions of section 151 of this title shall be imprisoned not more than one year or fined not more than \$1,000, or both. Any person who commits such a violation after one conviction under this section has become final shall be imprisoned not more than three years or fined not more than \$10,000, or both.

(b) Notwithstanding the provisions of subsection (a) of this section, any person who violates any of the provisions of section 151 of this title, with intent to defraud or mislead, shall be imprisoned not more than three years or fined not more than \$10,000, or both.

(c) No person shall be subject to the penalties of subsection (a) of this section—

(1) for having received in interstate commerce any article and delivered it or proffered delivery of it, if such delivery or proffer was made in good faith, unless he refuses to furnish on request of an officer or employee duly designated by the Secretary the name and address of the person from whom he purchased or received such article and copies of all documents, if any, pertaining to the delivery of the article to him; or

(2) for having violated section 151 (a) or 151 (d) of this title, if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person residing in the United States from whom he received the article in good faith, to the effect, in case of an alleged violation of section 151 (a) of this title, that such article is not adulterated or misbranded, within the meaning of this chapter, designating this chapter, or to the effect, in case of an alleged violation of section 151 (d) of this title, that such article is not an article which may not, under the provisions of section 56 or 75 of this title, be introduced into interstate commerce; or

(3) for having violated section 151 (a) of this title, where the violation exists because the article is adulterated by reason of containing a coal-tar color not from a batch certified in accordance with the Secretary's regulations, if such person establishes a guaranty or]

Undertaking signed by, and containing the name and address of, the manufacturer of the coal-tar color, to the effect that such color was from a batch certified in accordance with the applicable regulations promulgated by the Secretary under this chapter; or

(4) for having violated section 151 (b), 151 (c), or 151 (k) of this title by failure to comply with section 72 (f) of this title in respect to an article received in interstate commerce to which neither section 73 (a) nor section 73 (b) (1) is applicable, if the delivery or proffered delivery was made in good faith and the labeling at the time thereof contained the same directions for use and warning statements as were contained in the labeling at the time of such receipt of such article.

§ 153. Injunctions

(a) The United States district courts and the United States courts of the Territories shall have jurisdiction, for cause shown, and subject to the provisions of Rule 65 (a) (b) of the Federal Rules of Civil Procedure, to restrain violations of section 151 of this title, except paragraphs (5), (6), (8), (9), and (10), thereof.

(b) Any violation of an injunction or restraining order issued under this section, which also constitutes a violation of this chapter, shall be tried by the court, or, upon demand of the accused, by a jury, in accordance with the practice and procedure applicable in the case of proceedings subject to the provisions of section 402 of Title 18.

§ 154. Libel for condemnation

(a) **GROUND AND JURISDICTION.**—Any article of food, drug, device, or cosmetic that is adulterated or misbranded when introduced into or while in interstate commerce or while held for sale (whether or not the first sale) after shipment in interstate commerce, or which may not, under the provisions of section 56 or 75 of this title, be introduced into interstate commerce, shall be liable to be proceeded against while in interstate commerce, or at any time thereafter, on libel of information and condemned in any district court of the United States within the jurisdiction of which the article is found.

(b) **PROCEDURE.**—The article shall be liable to seizure by process pursuant to the libel, and the procedure in cases under this section shall conform, as nearly as may be, to the procedure in admiralty; except that on demand of either party any issue of fact joined in any such case shall be tried by jury.

(c) **LIBELS FOR MISBRANDING LIMITED; CHANGE OF VENUE.**—No libel for condemnation for any alleged misbranding shall be instituted under this chapter, if there is pending in any court a libel]

[for condemnation proceeding under this chapter based upon the same alleged misbranding, and not more than one such proceeding shall be instituted if no such proceeding is so pending, except that such limitations shall not apply—

(1) when such misbranding has been the basis of a prior judgment in favor of the United States, in a criminal, injunction, or libel for condemnation proceeding under this chapter, or

(2) when the Secretary has probable cause to believe from facts found, without hearing, by him or any officer or employee of the Department that the misbranded article is dangerous to health, or that the labeling of the misbranded article is fraudulent, or would be in a material respect misleading to the injury or damage of the purchaser or consumer.

In any case where the number of libel for condemnation proceedings is limited as above provided the proceeding pending or instituted shall, on application of the claimant, seasonably made, be removed for trial to any district agreed upon by stipulation between the parties, or, in case of failure to so stipulate within a reasonable time, the claimant may apply to the court of the district in which the seizure has been made, and such court, after giving the United States attorney for such district reasonable notice and opportunity to be heard, shall by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the claimant's principal place of business, to which the case shall be removed for trial.

(d) **CONSOLIDATION OF MULTIPLE PROCEEDINGS.**—When libel for condemnation proceedings under this section, involving the same claimant and the same issues of adulteration or misbranding, are pending in two or more jurisdictions, such pending proceedings, upon application of the claimant seasonably made to the court of one such jurisdiction, shall be consolidated for trial by order of such court, and tried in (1) any district selected by the claimant where one of such proceedings is pending; or (2) a district agreed upon by stipulation between the parties. If no order for consolidation is so made within a reasonable time, the claimant may apply to the court of one such jurisdiction, and such court, after giving the United States attorney for such district reasonable notice and opportunity to be heard, shall by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the claimant's principal place of business, in which all such pending proceedings shall be consolidated for trial and tried. Such order of consolidation**]**

【shall not apply so as to require the removal of any case the date for trial of which has been fixed. The court granting such order shall give prompt notification thereof to the other courts having jurisdiction of the cases covered thereby.

(e) REMOVAL FOR TRIAL.—In the case of removal for trial of any case as provided by subsection (c) or (d) of this section—

(1) The clerk of the court from which removal is made shall promptly transmit to the court in which the case is to be tried all records in the case necessary in order that such court may exercise jurisdiction.

(2) The court to which such case is removed shall have the powers and be subject to the duties, for purposes of the case, which the court from which removal is made would have, or to which such court would be subject, if such case is not removed.

(f) SAMPLES OF SEIZED GOODS.—The court at any time after seizure up to a reasonable time before trial shall by order allow any party to a condemnation proceeding, his attorney or agent, to obtain a representative sample of the article seized and a true copy of the analysis, if any, on which the proceeding is based and the identifying marks or numbers, if any, of the packages from which the samples analyzed were obtained.

(g) DISPOSITION AFTER CONDEMNATION.—Any food, drug, device, or cosmetic condemned under this section shall, after entry of the decree, be disposed of by destruction or sale as the court may direct in accordance with the provisions of this section. If sold, the proceeds thereof, less the legal costs and charges, shall be paid into the Treasury of the United States. Such article shall not be sold under such decree contrary to the provisions of this chapter or the laws of the jurisdiction in which sold. After entry of the decree and upon the payment of the costs of such proceedings and the execution of a good and sufficient bond conditioned that such article shall not be sold or disposed of contrary to the provisions of this chapter or the laws of any State or Territory in which sold, the court may by order direct that such article be delivered to the owner thereof to be destroyed or brought into compliance with the provisions of this chapter under the supervision of an officer or employee duly designated by the Secretary, and the expenses of such supervision shall be paid by the person obtaining release of the article under bond. Any article condemned by reason of its being an article which may not, under section 56】

[or 75 of this title, be introduced into interstate commerce, shall be disposed of by destruction.

(h) **COSTS.**—When a decree of condemnation is entered against the article, court costs and fees, and storage and other proper expenses, shall be awarded against the person, if any, intervening as claimant of the article.

§ 155. Hearing before violation reported

Before any violation of this chapter is reported by the Secretary to any United States attorney for institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his views, either orally or in writing, with regard to such contemplated proceeding.

§ 156. Report of minor violations

Nothing in this chapter shall be construed as requiring the Secretary to report for prosecution, or for the institution of libel or injunction proceedings, minor violations of this chapter whenever the Secretary believes that the public interest will be adequately served by a suitable written notice or warning.

§ 157. Proceedings in name of United States; subpoenas

All proceedings for the enforcement, or to restrain violations, of this chapter shall be by and in the name of the United States. Subpoenas for witnesses who are required to attend a court of the United States, in any district, may run into any other district in any such proceeding.

CHAPTER 5—MILK AND CREAM

SUBCHAPTER I—IMPORTATION OF MILK AND CREAM

Sec.

- 201. Definitions.
- 202. Permits for importation.
- 203. Unfitness for importation.
- 204. Inspection, issue of permits; regulations.
- 205. Penalties.
- 206. State powers concerning milk and cream.
- 207. Short title.

SUBCHAPTER II—FILLED MILK

Sec.

- 221. Definitions.
- 222. Filled milk; Congressional finding concerning.
- 223. Regulations.
- 224. Penalties.
- 225. Short title.】

[SUBCHAPTER I—IMPORTATION OF MILK AND CREAM**§ 201. Definitions**

As used in this subchapter—

(a) “Person” means an individual, partnership, corporation, or association.

(b) “United States” means the continental United States.

§ 202. Permits for importation

No person shall import milk and cream into the United States unless the person by whom it is shipped or transported holds a valid permit from the Secretary of Health, Education, and Welfare.

§ 203. Unfitness for importation

Milk or cream shall be considered unfit for importation—

(a) when all cows producing such milk or cream are not healthy and a physical examination of all such cows has not been made within one year previous to such milk being offered for importation;

(b) when such milk or cream, if raw, is not produced from cows which have passed a tuberculin test applied by a duly authorized official veterinarian of the United States, or of the country in which such milk or cream is produced, within one year previous to the time of the importation, showing that such cows are free from tuberculosis;

(c) when the sanitary conditions of the dairy farm or plant in which it is produced or handled do not score at least fifty points out of one hundred points according to the current methods for scoring as provided by the score cards used by the United States Department of Agriculture;

(d) if the number of bacteria per cubic centimeter exceeds in the case of raw milk three hundred thousand, in the case of raw cream seven hundred and fifty thousand, and in the case of pasteurized milk one hundred thousand, and in the case of pasteurized cream five hundred thousand;

(e) when the temperature of milk or cream at the time of importation exceeds fifty degrees Fahrenheit.

§ 204. Inspection; issue of permits; regulations

(a) The Secretary of Health, Education, and Welfare shall cause such inspections to be made as are necessary to insure that milk and cream are produced and handled in compliance with section 203 of this title. When the Secretary finds that milk or cream is produced and handled so as not to be unfit for importation under clauses (1), (2), and (3) of section 203 of this title, the Secretary shall issue to persons making application therefor permits to ship milk or cream into the United]

[States. In lieu of the inspections to be made by or under the direction of the Secretary, the Secretary may, in the Secretary's discretion, accept a duly certified statement signed by a duly accredited official of an authorized department of any foreign government or of any State of the United States or any municipality thereof that the provisions in clauses (1), (2), and (3) of section 203 of this title have been complied with. Such certificate shall be in the form prescribed by the Secretary.

(b) The Secretary may, in the Secretary's discretion, waive the requirements of paragraph (4) of section 203 of this title when issuing permits to operators of condenseries in which milk or cream is used when sterilization of the milk or cream is a necessary process, except that no milk or cream shall be imported the bacterial count of which per cubic centimeter in any event exceeds one million two hundred thousand. Such requirements shall not be waived unless the farm producing such milk to be imported is within a radius of fifteen miles of the condenser in which it is to be processed. If milk or cream imported when the requirements of section 203, paragraph (4), of this title, have been so waived, is sold, used, or disposed of in its raw state or otherwise than as condensed milk by any person, the permit shall be revoked and the importer shall be subject to fine, imprisonment, or other penalty prescribed by this subchapter.

(c) The Secretary shall waive the requirements of paragraphs (2) and (5) of section 203 of this title insofar as the same relate to milk when issuing permits to operators of, or to producers for delivery to, creameries and condensing plants in the United States within twenty miles of the point of production of the milk, and who import no raw milk except for pasteurization or condensing. If milk imported when the requirements of paragraphs (2) and (5) of section 203 of this title have been so waived is sold, used, or disposed of in its raw state, or otherwise than as pasteurized, condensed, or evaporated milk by any person, the permit shall be revoked and the importer shall be subjected to fine, imprisonment, or other penalty prescribed by this subchapter.

(d) The Secretary shall make and enforce such regulations as the Secretary deems necessary to carry out the purpose of this subchapter for the issuance of permits to import milk and cream, for the handling of milk and cream, for the inspection of milk, cream, cows, barns, and other facilities used in the production and handling of milk and cream, and for the handling, keeping, transporting, and importing of milk and cream. Unless and until the Secretary pro-]

[vides for inspections to ascertain that paragraphs (1), (2), and (3) of section 203 of this title have been complied with, the Secretary shall issue temporary permits to any applicants therefor to ship or transport milk or cream into the United States.

(e) The Secretary may suspend or revoke any permit for the shipment of milk or cream into the United States when the Secretary finds that the holder thereof has failed to comply with the provisions of, or has violated, this subchapter, or any of the regulations made under this subchapter, or that the milk or cream brought or shipped by the holder of such permit into the United States is not produced and handled in conformity with, or that the quality thereof does not conform to, all of the provisions of section 203 of this title.

§ 205. Penalties

(a) No person in the United States shall receive milk or cream imported into the United States unless the importation is in accordance with the provisions of this subchapter.

(b) Any person who knowingly violates any provision of this subchapter shall, in addition to all other penalties prescribed by law, be fined not more than \$2,000 or imprisoned not more than one year, or both.

§ 206. State powers concerning milk and cream

Nothing in this subchapter shall be construed to affect the powers of any State, or any political subdivision thereof, to regulate the shipment of milk or cream into, or the handling, sale, or other disposition of milk or cream in, such State or political subdivision after the milk or cream has been lawfully imported under this subchapter.

§ 207. Short title

This subchapter may be cited as the "Federal Import Milk Act".

SUBCHAPTER II—FILLED MILK

§ 221. Definitions

As used in this subchapter—

(a) "Filled milk" means any milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat, so that the resulting product is in imitation or semblance of milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated. This definition does not include any distinctive pro-]

[prietary food compound not readily mistaken in taste for milk or cream or for evaporated, condensed, or powdered milk, or cream where such compound (1) is prepared and designed for feeding infants and young children and customarily used on the order of a physician; (2) is packed in individual cans containing not more than sixteen and one-half ounces and bearing a label in bold type that the content is to be used only for such purpose; and (3) is shipped in interstate or foreign commerce exclusively to physicians, wholesale and retail druggists, orphan asylums, child-welfare associations, hospitals, and similar institutions and generally disposed of by them.

(b) "Interstate or foreign commerce" means commerce (1) between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; (2) between points within the same State, Territory, or possession, or within the District of Columbia, but through any place outside thereof; or (3) within any Territory or possession, or within the District of Columbia.

(c) "Person" means an individual, partnership, corporation, or association.

§ 222. Filled milk; Congressional finding concerning

Filled milk is an adulterated article of food, injurious to the public health, and its sale constitutes a fraud upon the public.

§ 223. Regulations

The Secretary of Health, Education, and Welfare shall make and enforce such regulations as the Secretary deems necessary to carry out the purposes of this subchapter.

§ 224. Penalties

Any person who manufactures within any Territory or possession, or within the District of Columbia, or ships or delivers for shipment in interstate or foreign commerce, any filled milk, shall be fined not more than \$1,000 or imprisoned not more than one year, or both. When construing and enforcing the provisions of this subchapter, the act, omission, or failure of any person acting for or employed by any individual, partnership, corporation, or association, within the scope of his employment or office, shall in every case be deemed the act, omission, or failure, of each individual, partnership, corporation, or association, as well as of such person.

§ 225. Short title

This subchapter may be cited as the "Federal Filled Milk Act".**]**

[CHAPTER 7—TEA IMPORTATION

- Sec.
 261. Substandard tea importation; materials for manufacturing.
 262. Standards; duplicate samples.
 263. Importer's bonds and fees; sampling and examination.
 264. Permit for delivery; inferior grades; partial delivery.
 265. Examiners.
 266. Examination according to usages of trade.
 267. Re-examination by Appeals Board; disposition of tea.
 268. Procedure for re-examination; assistance of experts.
 269. Reimporting rejected teas; forfeitures.
 270. Regulations.
 271. Short title.

§ 261. Substandard tea importation; materials for manufacturing

(a) No person shall import or bring into the United States any merchandise as tea which is inferior in purity, quality, and fitness for consumption to the standards provided in section 262 of this title.

(b) Nothing in this chapter shall affect or prevent the importation into the United States, under such regulations as the Secretary of Health, Education, and Welfare prescribes, of any merchandise as tea which may be inferior in purity, quality, and fitness for consumption to the standards established by the Secretary, or of any tea waste, tea siftings, or tea sweepings, for the sole purpose of manufacturing theine, caffeine, or other chemical products whereby the identity and character of the original material is entirely destroyed or changed. Importers and manufacturers who import such tea, tea waste, tea siftings, or tea sweepings into the United States shall give suitable bond, to be subject to the approval only of the collector of customs at the port of entry, conditioned that said imported material shall be used only for the purposes provided in this subsection, under such regulations as may be prescribed by the Secretary.

§ 262. Standards; duplicate samples

The Board of Tea Experts shall prepare and submit standard samples of tea to the Secretary of Health, Education, and Welfare who, upon the Board's recommendation, shall fix and establish uniform standards of purity, quality, and fitness for consumption of all kinds of teas imported into the United States. The Secretary shall procure and deposit in the customhouses of the ports of New York, Chicago, San Francisco, and such other ports as the Secretary may determine, duplicate samples of such standards, and the Secretary shall procure a sufficient number of other duplicate samples to supply the importers and dealers in tea at all ports desiring the same at cost. All teas, or merchandise described as tea, of inferior purity, quality, and fitness for consumption to such standards shall be deemed within the prohibition of section 261 of this title.】

【§ 263. Importer's bonds and fees; sampling and examination

(a) On making entry at the customhouse of all teas, or merchandise described as tea, imported into the United States, the importer or consignee shall give a bond to the collector of the port that such merchandise shall not be removed from the warehouse until released by the collector, after it shall have been duly examined with reference to its purity, quality, and fitness for consumption. For the purpose of such examination samples of each line in every invoice of tea shall be submitted by the importer or consignee to the examiner, together with the sworn statement of such importer or consignee that such samples represent the true quality of each part of the invoice and accord with the specifications therein contained, or in the discretion of the Secretary, such samples shall be obtained by the examiner and compared by him with the standards established by this chapter. Where entry is made at ports where there is no qualified examiner as provided in section 265 of this title, the consignee or importer shall furnish such samples and sworn statement to the collector or other revenue officer to whom is committed the collection of duties, who shall also draw or cause to be drawn samples of each line in every invoice and shall forward the same to a duly qualified examiner as provided in that section. The bond required by this section shall also be conditioned for the payment of all customhouse charges which may attach to such merchandise prior to its being released or destroyed, as the case may be, under the provisions of this chapter.

(b) The collector shall not examine for importation, or release, any tea, or merchandise described as tea, under this chapter unless the importer or consignee thereof, prior to such examination, has paid for deposit into the Treasury of the United States as miscellaneous receipts, a fee of 3.5 cents for each hundred weight or fraction thereof of such tea and merchandise.

§ 264. Permit for delivery; inferior grades; partial delivery

If, after an examination as provided in section 263 of this title, the tea is found by the examiner to be equal in purity, quality, and fitness for consumption to the standards provided in this chapter, and no reexamination is demanded by the collector as provided in section 267 of this title, a permit shall at once be granted to the importer or consignee declaring the tea free from the control of the customs authorities. If tea, or merchandise described as tea, is found, in the opinion of the examiner, to be inferior in purity, quality, and】

fitness for consumption to such standards, the importer or consignee shall be immediately notified, and the tea, or merchandise described as tea, shall not be released by the customhouse, unless on a reexamination called for by the importer or consignee the finding of the examiner is found to be erroneous. If a portion of the invoice is passed by the examiner, a permit shall be granted for that portion and the remainder held for further examination, as provided in said section 267.

§ 265. Examiners

The examination provided for by this chapter shall be made by a duly qualified examiner at a port where standard samples are established. Where the merchandise is entered at ports where there is no qualified examiner, the examination shall be made at that one of said ports which is nearest the port of entry, and for this purpose samples obtained in the manner prescribed by section 263 of this title shall be forwarded to the proper port by the collector or chief officer at the port of entry.

§ 266. Examination according to usages of trade

In all cases of examination or reexamination of teas, or merchandise described as tea, by examiners or the United States Board of Tea Appeals under the provisions of this chapter, the purity, quality, and fitness for consumption of the same shall be tested according to the usages and customs of the tea trade, including the testing of an infusion of the same in boiling water, and, if necessary, chemical analysis.

§ 267. Reexamination by Appeals Board; disposition of tea

(a) If the collector, importer, or consignee protests against the finding of the examiner, the matter in dispute shall be referred for decision to the United States Board of Tea Appeals.

(b) If the Board, after examination, finds the tea in question to be equal in purity, quality, and fitness for consumption to the proper standards, the collector shall issue a permit for its release and delivery to the importer.

(c) If upon final reexamination by the Board the tea is found to be inferior in purity, quality, and fitness for consumption to the said standards, the importer or consignee shall give a bond, with security satisfactory to the collector, to export said tea, or merchandise described as tea, out of the limits of the United States within a period of six months after such final reexamination, and if the same has not been exported within the time specified, the collector, at the expiration of that time, shall cause the same to be destroyed.】

[§ 268. Procedure for reexamination; assistance of experts

In cases of reexamination of teas, or merchandise described as teas, by the United States Board of Tea Appeals in pursuance of the provisions of this chapter, the examiner shall put up and seal samples of the tea, or merchandise described as tea, in dispute, in the presence of the importer or consignee if he so desires, and transmit them to the Board, together with a copy of his finding, setting forth the cause of condemnation and the claim or ground of the protest of the importer relating to the same. Such samples and papers shall be distinguished by an identifying mark.

The decision of the Board shall be in writing, signed by its members, and transmitted with the record and samples to the collector within three days after its rendition. The collector shall forthwith furnish the examiner and the importer or consignee with a copy of such decision.

The United States Board of Tea Appeals may obtain the advice, when necessary, of persons skilled in the examination of teas, who shall each receive for his services in any particular case a compensation not exceeding \$5.

§ 269. Reimporting rejected teas; forfeiture

No imported teas which have been rejected by an examiner or by the United States Board of Tea Appeals, and exported under the provisions of this chapter, shall be reimported into the United States. Any such teas so reimported shall be forfeited.

§ 270. Regulations

The Secretary of Health, Education, and Welfare may enforce this chapter by appropriate regulations.

§ 271. Short title

This chapter and sections 3 and 4 of this title may be cited as the "Federal Import Tea Act".

CHAPTER 9—CAUSTIC POISONS

Sec.

311. Definitions.

312. Misbranded shipments.

313. Misbranded imports.

314. Removal of labels.

315. Enforcement.

316. Libel for condemnation.

317. Penalties.

318. Institution of condemnation and criminal proceedings.

319. Construction; application of other provisions.

320. Short title.】

[§ 311. Definitions

As used in this chapter, unless the context otherwise requires—

(a) “Dangerous caustic or corrosive substance” means:

(1) hydrochloric acid and any preparation containing free or chemically unneutralized hydrochloric acid (HCl) in a concentration of 10 per centum or more;

(2) sulphuric acid and any preparation containing free or chemically unneutralized sulphuric acid (H_2SO_4) in a concentration of 10 per centum or more;

(3) nitric acid or any preparation containing free or chemically unneutralized nitric acid (HNO_3) in a concentration of 5 per centum or more;

(4) carbolic acid ($\text{C}_6\text{H}_5\text{OH}$), otherwise known as phenol, and any preparation containing carbolic acid in a concentration of 5 per centum or more;

(5) oxalic acid and any preparation containing free or chemically unneutralized oxalic acid ($\text{H}_2\text{C}_2\text{O}_4$) in a concentration of 10 per centum or more;

(6) any salt of oxalic acid and any preparation containing any such salt in a concentration of 10 per centum or more;

(7) acetic acid or any preparation containing free or chemically unneutralized acetic acid ($\text{HC}_2\text{H}_3\text{O}_2$) in a concentration of 20 per centum or more;

(8) hypochlorous acid, either free or combined, and any preparation containing the same in a concentration so as to yield 10 per centum or more by weight of available chlorine, excluding calx chlorinata, bleaching powder, and chloride of lime;

(9) potassium hydroxide and any preparation containing free or chemically unneutralized potassium hydroxide (KOH), including caustic potash and Vienna paste, in a concentration of 10 per centum or more;

(10) sodium hydroxide and any preparation containing free or chemically unneutralized sodium hydroxide (NaOH), including caustic soda and lye, in a concentration of 10 per centum or more;

(11) silver nitrate, sometimes known as lunar caustic, and any preparation containing silver nitrate (AgNO_3) in a concentration of 5 per centum or more; and

(12) ammonia water and any preparation containing free or chemically uncombined ammonia (NH_3), including ammonium hydroxide and “hartshorn”, in a concentration of 5 per centum or more.]

[(b) "Misbranded parcel, package, or container" means a retail parcel, package, or container of any dangerous caustic or corrosive substance not bearing a conspicuous, easily legible label or sticker, containing—

(1) the common name of the substance;

(2) the name and place of business of the manufacturer, packer, seller, or distributor;

(3) the word "poison", running parallel with the main body of reading matter on the label or sticker, on a clear, plain background of a distinctly contrasting color, in uncondensed gothic capital letters, the letters to be not less than twenty-four-point size unless there is on the label or sticker no other type so large, in which event the type shall be not smaller than the largest type on the label or sticker; and

(4) directions for treatment in case of accidental personal injury by any dangerous caustic or corrosive substance, except that such directions need not appear on labels or stickers, on parcels, packages, or containers at the time of shipment or of delivery for shipment by manufacturers and wholesalers for other than household use.

(c) "Interstate or foreign commerce" means commerce (1) between any State, Territory, or possession, or the District of Columbia, and any place outside thereof, or (2) between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof, or (3) within any Territory or possession, or the District of Columbia.

(d) "Person" means an individual, partnership, corporation, or association.

§ 312. Misbranded shipments

(a) No person shall ship or deliver for shipment in interstate or foreign commerce or receive from shipment in such commerce any dangerous caustic or corrosive substance for sale or exchange, or sell or offer for sale any such substance in any Territory or possession or in the District of Columbia, in a misbranded parcel, package, or container suitable for household use.

(b) The provisions of subsection (a) of this section do not apply—

(1) to any regularly established common carrier shipping or delivering for shipment, or receiving from shipment, any such substance in the ordinary course of its business as a common carrier; nor

(2) to any person in respect of any such substance shipped or delivered for shipment, or received from shipment, for export to any】

[foreign country, in a parcel, package, or container branded in accordance with the specifications of a foreign purchaser and in accordance with the laws of the foreign country; nor

(3) to any dealer who establishes a guaranty signed by, and containing the name and address of, the wholesaler, jobber, manufacturer, or other party residing in the United States, from whom he purchased such articles, to the effect that the articles are not misbranded within the meaning of this chapter. In such case the person giving such guaranty shall be amenable to the prosecutions, fines, and other penalties which would otherwise attach, in due course, to the dealer under the provisions of this chapter.

§ 313. Misbranded imports

(a) Whenever any dangerous caustic or corrosive substance is offered for importation and the Secretary of Health, Education, and Welfare has reason to believe that such substance is being shipped in interstate or foreign commerce in violation of section 312 of this title, the Secretary shall give due notice and opportunity for hearing thereon to the owner or consignee and certify such fact to the Secretary of the Treasury, who shall thereupon either (1) refuse admission and delivery to the consignee of such substance, or (2) deliver such substance to the consignee pending examination, hearing, and decision in the matter, on the execution of a penal bond to the amount of the full invoice value of such substance, together with the duty thereon, if any, and to the effect that on refusal to return such substance for any cause to the Secretary of the Treasury when demanded, for the purpose of excluding it from the country or for any other purpose, the consignee shall forfeit the full amount of the bond.

(b) If, after proceeding in accordance with subsection (a) of this section, the Secretary is satisfied that such substance offered for importation was shipped in interstate or foreign commerce in violation of any provision of this chapter, the Secretary shall certify the fact to the Secretary of the Treasury, who shall thereupon notify the owner or consignee and cause the sale or other disposition of such substance refused admission and delivery or entered under bond, unless it is exported by the owner or consignee or labeled by him so as to conform to the law within three months from the date of such notice, under such regulations as the Secretary of the Treasury may prescribe. All charges for storage, carftage, or labor on any such substance refused admission or delivery or entered upon bond shall be paid by the owner or consignee. In default of such payment such charges shall constitute]

[a lien against any future importations made by such owner or consignee.

§ 314. Removal of labels

No person shall alter, mutilate, destroy, obliterate, or remove any label or sticker required by this chapter to be placed on any dangerous caustic or corrosive substance, if such substance is being—

- (1) shipped in interstate or foreign commerce; or
- (2) held for sale or exchange after having been so shipped; or
- (3) held for sale or exchange in any Territory or possession or in the District of Columbia.

§ 315. Enforcement

(a) Except as otherwise specifically provided in this chapter, the Secretary of Health, Education, and Welfare shall enforce its provisions.

(b) For enforcing the provisions of sections 313, 316, and 317 of this title, the Secretary may cause investigations, inspections, analyses, and tests to be made and samples to be collected, of any dangerous caustic or corrosive substance. The Department of Health, Education and Welfare shall pay to the person entitled, upon his request, the reasonable market value of any such sample taken. If it appears from the inspection, analysis, or test of any dangerous caustic or corrosive substance that such substance is in a misbranded package, parcel, or container suitable for household use, the Secretary shall cause notice thereof to be given to any person who may be liable for any violation of section 312 or 314 of this title in respect of such substance. Any person so notified shall be given an opportunity to be heard under the Secretary's regulations. If it appears that such person has violated the provisions of section 312 or 314 of this title, the Secretary shall at once certify the facts to the proper United States attorney, with a copy of the results of the inspection, analysis, or test duly authenticated under oath by the person making it.

(c) For the enforcement of his functions under this chapter the Secretary may—

- (1) prescribe and promulgate necessary regulations;
- (2) cooperate with any department or agency of the Government, with any State, Territory, or possession, or with the District of Columbia, or with any department, agency, or political subdivision thereof, or with any person;
- (3) appoint officers and employees necessary for the execution of this chapter and fix their salaries in accordance with the Classification Act of 1949;]

[(4) make such expenditures, including expenditures for personal services and rent at the seat of government and elsewhere, and for law books, books of reference, and periodicals, required for the execution of the Secretary's functions under this chapter and as provided for by the Congress from time to time; and

(5) give notice, by publication in such manner as the Secretary prescribes by regulation, of the judgment of the court in any case under the provisions of this chapter.

§ 316. Libel for condemnation

(a) Any dangerous caustic or corrosive substance in a misbranded parcel, package, or container suitable for household use shall be liable to be proceeded against in the United States district court for any judicial district in which the substance is found and to be seized for confiscation by a process of libel for condemnation, if such substance is being—

- (1) shipped in interstate or foreign commerce, or
- (2) held for sale or exchange after having been so shipped, or
- (3) held for sale or exchange in any Territory or possession or in the District of Columbia.

(b) If such substance is condemned as misbranded by the court it shall be disposed of in the discretion of the court—

- (1) by destruction;
- (2) by delivery to the owner thereof upon the payment of legal costs and charges and execution and delivery of a good and sufficient bond to the effect that such substance will not be sold or otherwise disposed of in any jurisdiction contrary to the provisions of this chapter or the laws of such jurisdiction.

(3) by sale. The proceeds of the sale, less legal costs and charges, shall be paid into the Treasury as miscellaneous receipts. Such substance shall not be sold in any jurisdiction contrary to the provisions of this chapter or the laws of such jurisdiction, and the court may require the purchaser at any such sale to label such substance in compliance with law before the delivery thereof; or

(c) Proceedings in such libel cases shall conform, as nearly as may be, to suits in rem in admiralty, except that either party may demand trial by jury on any issue of fact if the value in controversy exceeds \$20. In case of a jury trial the verdict of the jury shall have the same effect as a finding of the court upon the facts. All such proceedings shall be at the suit and in the name of the United States.】

§ 317. Penalties

(a) Any person who violates any provision of section 312 or 314 of this title shall be fined not more than \$1,000 or imprisoned not more than one year, or both. Any person who commits such a violation after one conviction under this section has become final shall be fined not more than \$10,000 or imprisoned not more than three years, or both.

(b) Notwithstanding the provisions of subsection (a) of this section, any person who violates any provision of section 312 or 314 of this title, with intent to defraud or mislead, shall be fined not more than \$10,000 or imprisoned not more than three years, or both.

§ 318. Institution of condemnation and criminal proceedings

Each United States attorney to whom the Secretary shall report any violation of section 312 or 314 of this title or to whom any health, medical, or drug officer or agent of any State, Territory, or possession, or of the District of Columbia presents satisfactory evidence of any such violation, shall cause libel for condemnation and criminal proceedings under sections 316 and 317 of this title to be commenced and prosecuted in the proper court of the United States, without delay, for the enforcement of the condemnation and penalties provided in such sections.

§ 319. Construction; application of other provisions

(a) This chapter is not to be construed as modifying or limiting in any way the right of any person to manufacture, pack, ship, sell, barter, and distribute dangerous caustic or corrosive substances in parcels, packages, or containers, labeled as required by this chapter.

(b) The provisions of this chapter shall be held to be in addition to and not in substitution for the provisions of the following:

(1) chapter 3 of this title;

(2) chapter 6 of Title 7;

(3) the Act entitled "An Act to regulate the practice of pharmacy and the sale of poisons in the District of Columbia, and for other purposes", approved May 7, 1906, as amended.

§ 320. Short title

This chapter may be cited as the "Federal Caustic Poison Act".

PART II.—ANIMALS, POULTRY AND MEATS

CHAPTER	Sec.
51. DEPARTMENT OF AGRICULTURE.....	451
53. MEAT INSPECTION.....	491
55. ANIMAL AND POULTRY DISEASE PREVENTION ; TRANSPORTATION, IMPORT, AND EXPORT.....	551
57. SERUMS AND ANALOGOUS PRODUCTS.....	611

[CHAPTER 51—DEPARTMENT OF AGRICULTURE

Sec.

451. Administration of Part II; delegation of functions.

§ 451. Administration of Part II; delegation of functions

The provisions of this part shall be administered by the Secretary of Agriculture, except as otherwise provided herein. Such Secretary's functions under this part shall be performed by him or, subject to his direction and control, by such officers and agencies of the Department of Agriculture as he designates.

CHAPTER 53—MEAT INSPECTION

Sec.

491. Definitions.

492. Ante-mortem inspections.

493. Post-mortem inspections.

494. Meat food products.

495. Canning or packing meats and products; labels.

496. Inspection of establishments.

497. Time of inspections.

498. Meat for export; inspection; clearance.

499. Inspector's certificates.

500. Inspection, stamps or marks.

501. Farmers and retail butchers and dealers, exemptions.

502. Inspectors; appointment, powers, and duties.

503. Regulations.

504. Cost of inspections.

505. Transportation of uninspected and unmarked articles.

506. Transportation or sale in violation of chapter.

507. Forgery or misuse of marks or certificates.

508. Penalties generally.

509. Penalty for sale or transportation of unfit products by exempted persons.

510. Bribery; acceptance of gifts.

511. Horse meat.

512. Dairy products for export.

513. Reindeer.

§ 491. Definitions

As used in this chapter—

(a) "establishment" means a slaughtering, canning, salting, packing, rendering, or similar establishment;

(b) "farmer" means any natural person or partnership chiefly engaged in producing agricultural products on whose farm the number of cattle, calves, sheep, lambs, swine, or goats is in keeping with the size of the farm or with the volume or character of the agricultural products produced thereon, but does not mean any person or partnership engaged in producing agricultural products who—

(1) actively engages in buying or trading in cattle, calves, sheep, lambs, swine, or goats; or

(2) actively engages, directly or indirectly, in conducting a business which includes the slaughter of cattle, calves, sheep, lambs, swine, or goats for food purposes; or

【(3) actively engages, directly or indirectly, in buying or selling meat or meat food products other than those prepared by any farmer on the farm; or

(4) actively engages, directly or indirectly, in salting, curing, or canning meat, or in preparing sausage, lard, or other meat food products; or

(5) slaughters, or permits any person to slaughter, on his or their farm cattle, calves, sheep, lambs, swine, or goats which are not actually owned by him or them;

(c) “inspector” means an inspector appointed by the Secretary of Agriculture under the provisions of this chapter;

(d) “retail butcher” or “retail dealer” means any person chiefly engaged in selling meat or meat food products to consumers only, except that the Secretary, at his discretion, may permit any retail butcher or retail dealer to transport in interstate or foreign commerce to consumers and meat retailers in any one week not more than five carcasses of cattle, twenty-five carcasses of calves, twenty carcasses of sheep, twenty-five carcasses of lambs, ten carcasses of swine, twenty carcasses of goats, or twenty-five carcasses of goat kids, or the equivalent of fresh meat therefrom, and to transport in interstate or foreign commerce to consumers only meat and meat food products which have been salted, cured, canned, or prepared as sausage, lard, or other meat food products, and which have not been inspected, examined, and marked as “Inspected and Passed” in accordance with this chapter and with the Secretary’s rules and regulations;

5. “Secretary” means the Secretary of Agriculture.

§ 492. **Ante-mortem inspections**

For the purpose of preventing the use in interstate or foreign commerce of meat and meat food products which are unsound, unhealthful, unwholesome, or otherwise unfit for human food, the Secretary may cause to be made an examination and inspection of all cattle, sheep, swine, and goats, the meat and meat food products of which are to be used in interstate or foreign commerce, before they are allowed to enter into any establishment in which they are to be slaughtered. All such animals found on such inspection to show symptoms of disease shall be set apart and slaughtered separately from all other such animals. When so slaughtered the carcasses of such animals shall be subject to a careful examination and inspection, under the Secretary’s rules and regulations, as provided for in this chapter.】

[§ 493. Post-mortem inspections

For the purpose set forth in section 492 of this title the Secretary shall cause to be made a post-mortem examination and inspection of the carcasses and parts thereof of all cattle, sheep, swine, and goats, which are to be prepared for human consumption at any establishment in any State or Territory or the District of Columbia for transportation or sale as articles of interstate or foreign commerce.

The carcasses and parts thereof of all such animals found to be sound, healthful, wholesome, and fit for human food shall be marked, stamped, tagged, or labeled as "Inspected and Passed".

All carcasses and parts thereof found to be unsound, unhealthful, unwholesome, or otherwise unfit for human food shall be marked, stamped, tagged, or labeled as "Inspected and Condemned", and all carcasses and parts thereof thus inspected and condemned shall be destroyed for food purposes by the establishment in the presence of an inspector.

After the first inspection, the inspectors shall, when they deem it necessary, reinspect the carcasses or parts thereof and if upon such reinspection any carcass or any part thereof is found to be unsound, unhealthful, unwholesome, or otherwise unfit for human food, it shall be destroyed for food purposes by the establishment in the presence of an inspector.

The Secretary may remove inspectors from any establishment which fails so to destroy any carcass or part thereof required to be destroyed by this section.

The provisions of this section apply to all carcasses or parts of carcasses of cattle, sheep, swine, and goats, or the meat or meat food products thereof which may be brought into any establishment, and such examination and inspection shall be had before the said carcasses or parts thereof are allowed to enter into any department wherein they are to be treated and prepared for meat food products. The provisions of this section also apply to all such products, which, after having been issued from any establishment, are returned to the same or to any similar establishment where such inspection is maintained.

§ 494. Meat food products .

For the purpose set forth in section 492 of this title the Secretary shall cause to be made an examination and inspection of all meat food products prepared for interstate or foreign commerce in any establishment.】

【The inspectors shall mark, stamp, tag, or label as “Inspected and Passed” all such products found to be sound, healthful, and wholesome, and which contain no dyes, chemicals, preservatives, or ingredients which render such meat, or meat food products unsound, unhealthful, unwholesome, or unfit for human food.

The inspectors shall label, mark, stamp, or tag as “Inspected and Condemned” all such products found unsound, unhealthful, and unwholesome, or which contain dyes, chemicals, preservatives, or ingredients which render such meat or meat food products unsound, unhealthful, unwholesome, or unfit for human food, and all such condemned meat food products shall be destroyed for food purposes by the establishment in the presence of an inspector. The Secretary may remove inspectors from any establishment which fails to so destroy such condemned meat food products.

Subject to the Secretary’s rules and regulations the provisions of this section in regard to preservatives shall not apply to meat food products for export to any foreign country and which are prepared or packed according to the specifications or directions of the foreign purchaser, when no substance is used in the preparation or packing thereof in conflict with the laws of the foreign country to which said article is to be exported. If said article is in fact sold or offered for sale for domestic use or consumption, this paragraph shall not exempt said article from the operation of all the other provisions of this chapter.

§ 495. Canning or packing meats and products; labels

When any meat or meat food product prepared for interstate or foreign commerce which has been inspected under this chapter and marked “Inspected and Passed” is placed or packed in any can, pot, tin, canvas, or other receptacle or covering in any establishment where inspection is maintained under this chapter, the person preparing said product shall cause a label to be attached to said receptacle or covering, under the supervision of an inspector. Such label shall state that the contents thereof have been “Inspected and Passed” under the provisions of this chapter. No inspection and examination of meat or meat food products deposited or inclosed in cans, tins, pots, canvas, or other receptacle or covering in any such establishment shall be deemed to be complete until such meat or meat food products have been sealed or inclosed in said receptacle or covering under the supervision of an inspector.】

[No such meat or meat food products shall be sold or offered for sale by any person in interstate or foreign commerce under any false or deceptive name. Established trade name or names which are usual to such products and which are not false and deceptive and which are approved by the Secretary are permitted.]

§ 496. Inspection of establishments

The Secretary shall cause inspections to be made, by experts in sanitation or by other competent inspectors, of all establishments defined in section 491 of this title in which cattle, sheep, swine, and goats are slaughtered and the meat and meat food products thereof are prepared for interstate or foreign commerce. The inspections shall be such as are necessary to inform the Secretary concerning the sanitary conditions of the establishments, and to enable him to prescribe the rules and regulations of sanitation under which such establishments shall be maintained. Where the sanitary conditions of any such establishment are such that the meat or meat food products are rendered unclean, unsound, unhealthful, unwholesome, or otherwise unfit for human food, the Secretary shall refuse to allow said meat or meat food products to be labeled, marked, stamped, or tagged as "Inspected and Passed."

§ 497. Time of inspections

(a) The examinations and inspections required by sections 492, 493, 494, and 495 of this title shall be made during the nighttime as well as during the daytime when the slaughtering of the animals or preparation of the meat or meat food products is conducted during the nighttime.

(b) For the purposes of any examination and inspection under this chapter, the inspectors shall have access at all times, by day or night, whether the establishment is being operated or not, to every part of the establishment.

§ 498. Meat for export; inspection; clearance

(a) The Secretary shall cause to be made a careful inspection of the carcasses and parts thereof of all cattle, sheep, swine, and goats, when the fresh, salted, canned, corned, packed, cured, or otherwise prepared meat or meat food products of such animals is intended and offered for export to any foreign country, at such times and places and in such manner as he deems proper.

(b) No clearance shall be given to any vessel having on board any fresh, salted, canned, corned, or packed beef, mutton, pork, or goat meat, for export to and sale in a foreign country from any port in the]

[United States, until the owner or shipper thereof shall obtain a certificate from an inspector that the cattle, sheep, swine, and goats from which such meat or meat food product was obtained, were sound and healthy at the time of inspection, and that their meat or meat food product is sound and wholesome, unless the Secretary has waived the requirement of such certificate for the country to which such meat or meat food product is to be exported.]

§ 499. Inspectors' certificates

The inspectors may give official certificates of the sound and wholesome condition of cattle, sheep, swine, and goats, their carcasses and products as described in this chapter.

One copy of each such certificate shall be filed in the Department of Agriculture, another copy shall be delivered to the owner or shipper, and when the carcasses of cattle, sheep, swine, and goats, and the meat and meat food products thereof are sent abroad, a third copy shall be delivered to the chief officer of the vessel on which the shipment is made.

§ 500. Inspection, stamps or marks

The inspectors shall refuse to stamp, mark, tag, or label as "Inspected and Passed" any carcass or any part thereof, or meat food product therefrom, prepared in any establishment subject to this chapter until the same has actually been inspected and found to be sound, healthful, wholesome, and fit for human food, and to contain no dyes, chemicals, preservatives, or ingredients which render such meat food product unsound, unhealthful, unwholesome, or unfit for human food, and to have been prepared under proper sanitary conditions.

§ 501. Farmers and retail butchers and dealers, exemptions

(a) The provisions of this chapter requiring inspection to be made by the Secretary do not apply to animals slaughtered by any farmer on the farm and sold and transported in interstate or foreign commerce, nor to retail butchers and retail dealers in meat and meat food products, supplying their customers.

No meat and meat food products derived from animals slaughtered by any farmer on the farm which are salted, cured, canned, or prepared into sausage, lard, or other meat food products at any place other than by the farmer on the farm upon which the animals were slaughtered shall be transported in interstate or foreign commerce under the farmers' exemption provided in this section. All fresh meat and all farm-cured or prepared meat and meat food products]

【derived from animals slaughtered by any farmer on the farm which are to be used in interstate or foreign commerce shall be clearly marked with the name and address of the farmer on whose farm the animals were slaughtered.

(b) The Secretary may maintain the inspection provided for in this chapter at any establishment notwithstanding the exemptions contained in this section, and notwithstanding that the persons operating the same may be retail butchers and retail dealers or farmers. Where the Secretary establishes such inspection, the provisions of this chapter shall apply notwithstanding such exemptions.

§ 502. Inspectors; appointment, powers, and duties

The Secretary shall from time to time appoint inspectors to make the examinations and inspections provided for under this chapter and to perform such other duties as are required by this chapter and the Secretary's rules and regulations.

§ 503. Regulations

The Secretary shall make such rules and regulations as are necessary for the efficient execution of the provisions of this chapter. All inspections and examinations under this chapter shall be made in the manner provided in the Secretary's rules and regulations which are not inconsistent with this chapter.

§ 504. Cost of inspections

The United States shall bear the cost of inspections rendered under the requirements of this chapter except the cost of overtime pursuant to section 394 of title 7.

§ 505. Transportation of uninspected and unmarked articles

No person shall transport or offer for transportation, and no carrier of interstate or foreign commerce shall transport or receive for transportation from one State or Territory or the District of Columbia or to any other State or Territory or the District of Columbia, or to any place under the jurisdiction of the United States, or to any foreign country, any carcasses or parts thereof, meat, or meat food products thereof which have not been inspected, examined, and marked as "Inspected and Passed", in accordance with the terms of this chapter and with the Secretary's rules and regulations.

§ 506. Transportation or sale in violation of chapter

No person engaged in the interstate commerce of meat or meat food products shall transport or offer for transportation, sell or offer to sell, any such meat or meat food products in any State or Territory or in the District of Columbia or any place under the jurisdiction of】

【the United States, other than in the State or Territory or in the District of Columbia or any place under the jurisdiction of the United States in which the slaughtering, packing, canning, rendering, or other similar establishment owned, leased, or operated by such person is located unless and until such person shall have complied with all of the provisions of this chapter.

§ 507. Forgery or misuse of marks or certificates

No person shall forge, counterfeit, simulate, or falsely represent, or shall without proper authority use, fail to use, or detach, or shall knowingly or wrongfully alter, deface, or destroy, or fail to deface or destroy, any of the marks, stamps, tags, labels, or other identification devices provided for in this chapter, or in and as directed by the rules and regulations prescribed under this chapter by the Secretary of Agriculture, on any carcasses, parts of carcasses, or the food product, or containers thereof, subject to the provisions of this chapter or any certificate in relation thereto, authorized or required by this chapter or by the said rules and regulations of the Secretary of Agriculture.

§ 508. Penalties generally

Except as provided in sections 509 and 510 of this title, whoever violates any of the provisions of this chapter shall be fined not more than \$10,000 or imprisoned not more than one year, or both.

§ 509. Penalty for sale or transportation of unfit products by exempted persons

Whoever, being a farmer, retail butcher, or retail dealer acting under the exemptions provided in section 502 of this title, sells or offers for sale or transportation for interstate or foreign commerce any meat or meat food products which are diseased, unsound, unhealthful, unwholesome, or otherwise unfit for human food, knowing that such meat food products are intended for human consumption, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

§ 510. Bribery; acceptance of gifts

(a) Whoever gives, pays, or offers, directly or indirectly, to any inspector, deputy inspector, chief inspector, or any other officer or employee of the United States authorized to perform any of the duties prescribed by this chapter or by the Secretary's rules and regulations, any money or other thing of value, with intent to influence such inspector, deputy inspector, chief inspector, or other officer or employee of the United States in the discharge of any duty provided for in this chapter, shall be fined not more than \$10,000 or imprisoned not more than three years, or both.】

[(b) Whoever, being an inspector, deputy inspector, chief inspector, or other officer or employee of the United States authorized to perform any of the duties prescribed by this chapter, accepts any money, gift, or other thing of value from any person, given with intent to influence his official action, or who receives or accepts from any person engaged in interstate or foreign commerce any gift, money, or other thing of value, given with any purpose or intent whatsoever, shall be summarily discharged from office and shall be fined not more than \$10,000 or imprisoned not more than three years, or both.]

§ 511. Horse meat

(a) No person shall transport or offer for transportation, and no carrier of interstate or foreign commerce shall transport or receive for transportation from one State or Territory or the District of Columbia to any other State or Territory or the District of Columbia or to any place under the jurisdiction of the United States or to any foreign country, any equine meat or food products thereof unless plainly and conspicuously labeled, marked, branded or tagged "Horse meat" or "Horse-meat Product", as the case may be, under rules and regulations prescribed by the Secretary.

(b) All the penalties, terms and provisions in this chapter, except the exemption in section 501 of this title applying to animals slaughtered by any farmer on a farm and to retail butchers and retail dealers in meat food products supplying their customers, shall be applicable to (1) horses, their carcasses, parts of carcasses, and meat food products thereof, (2) the establishments and other places where such animals are slaughtered or the meat or meat food products thereof are prepared or packed for interstate or foreign commerce, and (3) all persons who slaughter such animals or prepare or handle such meat or meat food products for interstate or foreign commerce.

§ 512. Dairy products for export

This chapter shall be deemed to include dairy products intended for exportation to any foreign country. The Secretary may apply, under rules and regulations prescribed by him, the provisions of this chapter for inspection and certification appropriate for ascertaining the purity and quality of such products, and may cause them to be so marked, stamped, or labeled as to secure their identity and make known in the markets of foreign countries to which they may be sent from the United States their purity, quality, and grade. All the provisions of this chapter relating to live cattle and products thereof for export shall apply to dairy products so inspected and certified.】

[§ 513. Reindeer

The provisions of this chapter may be extended to the inspection of reindeer.

CHAPTER 55—ANIMAL AND POULTRY DISEASE PREVENTION; TRANSPORTATION, IMPORT, AND EXPORT

Sec.

- 551. Measures and regulations to prevent introduction or spread of disease.
- 552. Control of diseases; cooperation with States.
- 553. Research laboratories for foot-and-mouth and other diseases.
- 554. Appointment of agents to make recommendations.
- 555. Cooperation with Mexico; foot-and-mouth disease and rinderpest; reports to Congress.
- 556. Cattle grubs, research and eradication.
- 557. International boundary fences.
- 558. Regulation of transportation and exportation generally.
- 559. Quarantine of infected areas.
- 560. Regulations for transportation from quarantined areas.
- 561. Transportation from quarantined areas prohibited; exceptions.
- 562. Transportation of diseased livestock or poultry prohibited.
- 563. Cattle reacting to tuberculin test, transportation of.
- 564. Domestic animals reacting to test for paratuberculosis or brucellosis.
- 565. Regulation and promotion of exports.
- 566. Suspension of importation.
- 567. Importation of diseased or exposed animals and poultry prohibited.
- 568. Importation prohibited except at quarantine stations.
- 569. Quarantine of imported animals and poultry.
- 570. Inspection and disposition of imported animals and poultry.
- 571. Disease control in District of Columbia.
- 572. Inspection by Department as precluding other inspections and fees.
- 573. Penalties.
- 574. Prosecution of violations; venue.

§ 551. Measures and regulations to prevent introduction or spread of disease

The Secretary of Agriculture may—

(1) make regulations and take measures to prevent the introduction or dissemination of the contagion of any communicable disease of animals or poultry from a foreign country into the United States or from one State or Territory of the United States or the District of Columbia to another, and

(2) seize, quarantine, and dispose of any hay, straw, forage, or similar material, or any meats, hides, or other animal or poultry products coming from an infected foreign country to the United States, or from one State or Territory or the District of Columbia in transit to another State or Territory or the District of Columbia whenever in his judgment such action is advisable to guard against the introduction or spread of such contagion.

§ 552. Control of diseases; cooperation with States

(a) The Secretary of Agriculture shall prepare rules and regulations for the speedy and effectual control and eradication of dangerous communicable diseases of domestic animals and poultry.】

【He shall certify such rules and regulations to the executive authority of each State and Territory, and invite said authorities to cooperate in the execution and enforcement of the provisions of this chapter. Whenever the plans and methods of the Secretary are accepted by any State or Territory in which any such disease is declared to exist, or whenever such State or Territory adopts plans and methods for the control and eradication of the disease and such plans and methods are accepted by the Secretary of Agriculture, and whenever the governor of a State or other properly constituted authorities signify their readiness to cooperate for the extinction of the disease in conformity with the provisions of this chapter, the Secretary may expend so much of the money appropriated for carrying out the provisions of this chapter as may be necessary in such investigations, and in such disinfection and quarantine measures as may be necessary to prevent the spread of the disease from one State or Territory into another.

(b) The Secretary of Agriculture, either independently or in cooperation with States or political subdivisions thereof, farmers' associations, and similar organizations, and individuals, may control and eradicate tuberculosis and paratuberculosis of animals, avian tuberculosis, brucellosis of domestic animals, southern cattle ticks, hog cholera and related swine diseases, scabies in sheep and cattle, dourine in horses, scrapie and blue tongue in sheep, incipient or potentially serious minor outbreaks of diseases in animals and poultry, and communicable diseases of animals and poultry which in the opinion of the Secretary constitute an emergency and threaten the livestock industry of the country, including the purchase and destruction of diseased or exposed animals and poultry, or the destruction of such animals and poultry and the payment of indemnities therefor, in accordance with such regulations as the Secretary prescribes. As used in this subsection, the term "State" includes the District of Columbia and the Territories and possessions of the United States.

§ 553. Research laboratories for foot-and-mouth and other diseases

The Secretary of Agriculture may establish research laboratories, including the acquisition of necessary land, buildings, or facilities, and also the making of research contracts under the authority contained in section 427i (a) of Title 7, for research and study, in the United States or elsewhere, of foot-and-mouth disease and other animal and poultry diseases which in his opinion constitute a threat to the livestock or poultry industry of the United States.】

[No live virus of foot-and-mouth disease may be introduced for any purpose into any part of the mainland of the United States except coastal islands separated therefrom by waters navigable for deep-water navigation and which are not connected with the mainland by any tunnel, and except further, that in the event of outbreak of foot-and-mouth disease in this country, the Secretary of Agriculture may, at his discretion, permit said virus to be brought into the United States under adequate safeguards.

To carry out the provisions of this section, the Secretary may employ technical experts or scientists without regard to the Classification Act of 1949, but the number so employed shall not exceed five and the maximum compensation for each shall not exceed \$15,000 per annum. There is authorized to be appropriated such sums as Congress may deem necessary and, in addition, the Secretary may utilize, in carrying out this section, funds otherwise available for the control or eradication of such diseases.

§ 554. Appointment of agents to make recommendations

The Secretary of Agriculture may appoint two competent agents, who are practical stock raisers or experienced business men familiar with questions pertaining to commercial transactions in livestock or poultry, who shall, under the instructions of the Secretary, examine and report upon the best methods of treating, transporting, and caring for animals and poultry, and the means to be adopted for the control and eradication of contagious pleuropneumonia, and provide against the spread of other dangerous communicable diseases. The compensation of such agents shall be at the rate of \$10 per diem, with all necessary expenses, while engaged in the actual performance of their duties under this section, when absent from their usual place of business or residence.

§ 555. Cooperation with Mexico; foot-and-mouth disease and rinderpest; reports to Congress

(a) The Secretary of Agriculture may cooperate with the Government of Mexico in carrying out operations or measures to eradicate, suppress, or control, or to prevent or retard, foot-and-mouth disease or rinderpest in Mexico where he deems such action necessary to protect the livestock and related industries of the United States. In performing such operations or measures, the Government of Mexico shall be responsible for the authority necessary to carry them out on all lands and properties in Mexico and for such other facilities and means as are necessary in the discretion of the Secretary]

of Agriculture. The measure and character of cooperation carried out under this section on the part of the United States and on the part of the Government of Mexico, including the expenditure or use of funds appropriated pursuant to this section, shall be such as may be prescribed by the Secretary of Agriculture. Arrangements for such cooperation shall be made through and in consultation with the Secretary of State. The authority contained in this section is in addition to and not in substitution for the authority of existing law.

(b) For purposes of this section, funds appropriated pursuant thereto may also be used for (1) the purchase or hire of passenger motor vehicles and aircraft, (2) printing and binding without regard to section 111 of Title 44, (3) the employment of civilian nationals of Mexico, and (4) the construction and operation of research laboratories, quarantine stations and other buildings and facilities.

(c) The Secretary of Agriculture shall make a report to the Congress on the last day of each month with respect to the activities carried on under this section.

§ 556. Cattle grubs, research and eradication

In order to protect, promote, and conserve livestock and livestock products and to minimize losses, the Secretary of Agriculture, either independently or in cooperation with States or subdivisions thereof, farmers' associations, and other organizations and individuals, may increase and intensify research and investigations into problems and methods relating to the eradication of cattle grubs and undertake measures to eradicate these parasites. As used in this section, the term "State" includes the District of Columbia and the Territories and possessions of the United States. Funds appropriated to carry out this section shall be expended in accordance with procedures prescribed by the Secretary.

§ 557. International boundary fences

The Secretary of Agriculture may permit the erection of fences along international boundary lines, but entirely within the territory of the United States, for the purpose of keeping out diseased animals and poultry.

§ 558. Regulation of transportation and exportation generally

In order to enable the Secretary of Agriculture effectually to control and eradicate dangerous communicable diseases in cattle and other livestock and poultry, and to prevent the spread of such diseases he shall establish such rules and regulations concerning the exportation and transportation of livestock and poultry from any place within]

【the United States where he may have reason to believe such diseases may exist into and through any State or Territory, and into and through the District of Columbia and to foreign countries as he deems necessary. All such rules and regulations shall have the force of law.

§ 559. Quarantine of infected areas

The Secretary of Agriculture shall quarantine any State or Territory or the District of Columbia, or any portion of any State or Territory or the District of Columbia, when he determines the fact that cattle or other livestock or poultry in such State or Territory or District of Columbia are affected with any communicable disease. He shall give written or printed notice of the establishment of quarantine to the proper officers of railroad, steamboat, or other transportation companies doing business in or through any quarantined State or Territory or the District of Columbia, and publish such notice in such newspapers in the quarantined State or Territory or the District of Columbia as he may select.

§ 560. Regulations for transportation from quarantined areas

The Secretary of Agriculture shall, when the public safety will permit, make and promulgate rules and regulations which shall permit and govern the inspection, disinfection, certification, treatment, handling, and method and manner of delivery and shipment of cattle or other livestock or poultry from a quarantined State or Territory or the District of Columbia, and from the quarantined portion of any State or Territory or the District of Columbia, into any other State or Territory or the District of Columbia. The Secretary shall give notice of such rules and regulations in the manner provided in section 559 of this title for notice of establishment of quarantine.

§ 561. Transportation from quarantined areas prohibited; exceptions

(a) No railroad company and no owners or masters of any vessel or boat shall receive for transportation or transport, no person shall deliver for transportation to any railroad company or to the master or owner of any vessel or boat, and no person shall drive or cause to be driven on foot or transport or cause to be transported by private conveyance, any cattle or other livestock or poultry from any quarantined State or Territory or the District of Columbia, or from any quarantined portion thereof, into any other State or Territory or the District of Columbia, except in compliance with rules and regulations promulgated by the Secretary of Agriculture under section 560 of this title.】

[(b) The provisions of subsection (a) of this section and sections 559, 560, and 573 (b) of this title shall apply to any railroad company or other common carrier whose road or line forms any part of a route over which cattle or other livestock or poultry are transported in the course of shipment from any quarantined State or Territory or the District of Columbia, or from the quarantined portion of any State or Territory or the District of Columbia, into any other State or Territory or the District of Columbia.

§ 562. Transportation of diseased livestock or poultry prohibited

No railroad company within the United States, and no owners or masters of any vessel or boat, shall receive for transportation or transport from one State or Territory to another, or from any State into the District of Columbia, or from the District into any State, any livestock or poultry affected with any communicable disease; nor shall any person deliver for such transportation to any railroad company, or master or owner of any boat or vessel, any livestock or poultry, knowing them to be affected with any communicable disease. No person shall drive on foot, or transport in private conveyance, from one State or Territory to another, or from any State into the District of Columbia, or from the District into any State, any livestock or poultry, knowing them to be affected with any communicable disease.

§ 563. Cattle reacting to tuberculin test, transportation of

Cattle which have reacted to the tuberculin test may be shipped, transported, or moved from one State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia, for immediate slaughter, in accordance with such rules and regulations as shall be prescribed by the Secretary of Agriculture. The Secretary may, in his discretion, and under such rules and regulations as he may prescribe, permit cattle which have been shipped for breeding or feeding purposes from one State, Territory, or the District of Columbia to another State, Territory, or the District of Columbia, and which have reacted to the tuberculin test subsequent to such shipment, to be reshipped in interstate commerce to the original owner.

§ 564. Domestic animals reacting to test for paratuberculosis or brucellosis

Domestic animals which have reacted to a test recognized by the Secretary of Agriculture for paratuberculosis or which, never having been vaccinated for brucellosis, have reacted to a test recognized by the Secretary of Agriculture for brucellosis, may be shipped, trans-]

ported, or otherwise moved from one State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia for immediate slaughter in accordance with such rules and regulations as the Secretary of Agriculture may prescribe to prevent the dissemination of said diseases from one State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia. The Secretary of Agriculture may, in his discretion and under such rules and regulations as he may prescribe, permit domestic animals which have been moved from one State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia, for breeding purposes, and which, subsequent to such movement, have reacted to a test for brucellosis or paratuberculosis recognized by the Secretary of Agriculture, to be reshipped in interstate commerce to the original owner at the point of origin.

§ 565. Regulation and promotion of exports

(a) The Secretary of Agriculture may take such steps and adopt such measures, not inconsistent with the provisions of this chapter, as he deems necessary to prevent the exportation from any port of the United States to any port in a foreign country of livestock or poultry affected with any communicable disease.

(b) In order to promote the exportation of livestock and poultry from the United States the Secretary of Agriculture shall make special investigation as to the existence of any communicable disease, along the borders between the United States and foreign countries, and along the lines of transportation from all parts of the United States to ports from which livestock or poultry are exported, and shall, from time to time, establish such regulations concerning the exportation and transportation of livestock or poultry as the results of such investigations may require.

(c) The Secretary of Agriculture, by such orders and regulations as he prescribes, may cause inspection to be made of all cattle, sheep, other ruminants, swine, and poultry intended for exportation, and provide for the disinfection of all vessels engaged in the transportation thereof, and of all barges or other vessels used in the conveyance of such animals and poultry to the ocean steamer or other vessels, and of all attendants and their clothing, and of all headropes and other appliances used in such exportation. If, upon such inspection, any such animals or poultry are adjudged, under the Secretary's regulations, to be infected or to have been exposed to infection so as to be dangerous to other animals or poultry, they shall not be allowed to be placed upon any vessel for exportation. The expense of all the

[inspection and disinfection provided for in this subsection shall be borne by the owners of the vessels on which such animals or poultry are exported.

(d) The Secretary shall cause to be made a careful inspection of all cattle, sheep, swine, and goats intended and offered for export to foreign countries at such times and places, and in such manner, as he deems proper to ascertain whether such animals are free from disease.

(e) No clearance shall be given to any vessel having on board cattle, sheep, swine, or goats for export to a foreign country until the owner or shipper of such animals has a certificate from an inspector stating that the animals are sound and healthy, or unless the Secretary has waived the requirement of such certificate for export to the particular country to which they are to be exported.

§ 566. Suspension of importation

Whenever, in the opinion of the President, it is necessary for the protection of animals, including poultry, in the United States against communicable diseases, he may, by proclamation, suspend the importation of all or any class of animals or poultry for a limited time, and may change, modify, revoke, or renew such proclamation, as the public good may require. During the time of such suspension the importation of any such animals or poultry shall be unlawful.

§ 567. Importation of diseased or exposed animals and poultry prohibited

No person shall import cattle, sheep, other ruminants, swine, and poultry, which are diseased or infected with any disease, or which have been exposed to such infection within sixty days next before their exportation. However, the Secretary of Agriculture may by regulations permit the admission from Mexico into the State of Texas of cattle which have been infested with or exposed to ticks upon being freed therefrom.

§ 568. Importation prohibited except at quarantine stations

No person shall import cattle, sheep, other ruminants, swine, and poultry except at ports designated as quarantine stations by the Secretary of Agriculture with the approval of the Secretary of the Treasury.

If any animals and poultry subject to quarantine are brought into any port of the United States where no quarantine station is established, the collector of such port shall require such animals and poultry to be conveyed to the nearest quarantine station by the vessel on which they are imported or are found, at the expense of the owner.】

[§ 569. Quarantine of imported animals and poultry

The Secretary of Agriculture may, at the expense of the owner, place and retain in quarantine all cattle, sheep, other ruminants, swine, and poultry imported into the United States, at ports designated by him for such purpose, and under such conditions as he by regulation prescribes, respectively, for the several classes of animals and poultry above described.

For the purpose of such quarantine, the Secretary may purchase, construct, or rent such lands, buildings, animals, tools, fixtures, and appurtenances as may be necessary, and he may appoint such veterinary surgeons, inspectors, officers, and employees as he deems necessary to maintain such quarantine and provide for the execution of the other provisions of sections 565 (c), 566-570, and 573 (e) of this title.

§ 570. Inspection and disposition of imported animals and poultry

(a) The Secretary of Agriculture shall cause careful inspection to be made of all imported cattle, sheep, other ruminants, swine, and poultry, to ascertain whether such animals and poultry are infected with communicable diseases or have been exposed to infection so as to be dangerous to other animals and poultry. Such animals and poultry shall then be either placed in quarantine or dealt with according to the Secretary's regulations.

All food, litter, manure, clothing, utensils, and other appliances that have been so related to such animals and poultry on board ship as to be judged liable to convey infection shall be dealt with according to the Secretary's regulations.

(b) The Secretary of Agriculture may cause to be slaughtered such of the animals and poultry named in subsection (a) of this section as may be, under his regulations, adjudged to be infected with any communicable disease, or to have been exposed to infection so as to be dangerous to other animals and poultry. The value of animals and poultry slaughtered as being exposed to infection but not infected may be ascertained by agreement of the Secretary and the owners thereof if practicable; otherwise, by the appraisal by two persons familiar with the character and value of such property, appointed by the Secretary, whose decision, if they agree, shall be final; otherwise, the Secretary of Agriculture shall decide between them, and his decision shall be final. The amount of the value thus ascertained shall be paid to the owner thereof out of money in the Treasury appropriated for the use of the Bureau of Animal Industry】

For for the use of such other bureau or agency, or of any officer, of the Department of Agriculture, to which or to whom the Secretary may delegate the functions heretofore or hereafter exercised by him through the Bureau of Animal Industry; but no payment shall be made for any animals or poultry imported in violation of the provisions of sections 566-570 or 573 (e) of this title.

§ 571. Disease control in District of Columbia

Whenever any communicable disease affecting domestic animals or poultry, is brought into or breaks out in the District of Columbia, the Commissioners of the District of Columbia shall take measures to suppress the disease promptly and to prevent it from spreading. For this purpose the Commissioners may (1) require that any premises or farms where such disease exists, or has existed, be put in quarantine; (2) order that all or any animals and poultry coming into the District be detained at any place for the purpose of inspection and examination; (3) prescribe regulations for and require the destruction of animals or poultry affected with communicable disease, and for the proper disposition of their hides and carcasses; and (4) prescribe regulations for disinfection, and such other regulations as they may deem necessary to prevent infection or contagion being communicated. The Commissioners shall report to the Secretary of Agriculture any actions taken under this section.

§ 572. Inspection by Department as precluding other inspections and fees

Whenever the Secretary of Agriculture, or any inspector or assistant inspector of the Department of Agriculture designated by the Secretary for such purpose, issues a certificate showing that such officer has inspected any cattle or other livestock or poultry which are about to be shipped, driven, or transported from one locality to another as stated in section 558 of this title, and has found them free from any communicable disease, such animals or poultry, so inspected and certified, may be shipped, driven, or transported from such place into and through any State or Territory or the District of Columbia, or they may be exported from the United States, without further inspection or the exaction of fees of any kind, except such as may at any time be ordered or exacted by the Secretary of Agriculture. For the purposes of such inspection, all such animals and poultry shall at all times be under the control and supervision of the Secretary of Agriculture.】

§ 573. Penalties

(a) Whoever knowingly violates section 551, 558 or 572 of this title or the orders or regulations made in pursuance thereof shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(b) Whoever violates section 561 of this title shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(c) The Secretary of Agriculture shall give notice of the existence of contagion in any infected locality by notice, in writing, to the proper officials or agents of any railroad, steamboat, or other transportation company doing business in or through such locality, and by publication in such newspapers as he may select. Whoever, being a person operating any such railroad, or master or owner of any boat or vessel, or owner or custodian of or person having control over such cattle or other livestock or poultry within such infected district, knowingly violates section 562 of this title shall be fined not more than \$5,000 or imprisoned not more than one year, or both.

(d) Whoever violates section 565 (d) (e) of this title shall be fined not more than \$10,000 or imprisoned not more than one year, or both.

(e) Whoever knowingly violates section 567 of this title shall be fined not more than \$5,000 or imprisoned not more than three years. Any vessel or vehicle used in such unlawful importation within the knowledge of the master or owner of such vessel or vehicle that such importation is diseased or has been exposed to infection as described in section 567 of this title, shall be forfeited to the United States.

§ 574. Prosecution of violations; venue

The several United States attorneys shall prosecute all violations of this chapter which are brought to their notice by any person making complaint under oath, in the United States district court or Territorial court held within the district in which the violation has been committed.

CHAPTER 57—SERUMS AND ANALOGOUS PRODUCTS

Sec.

611. Preparation and sale of serum, etc.

612. Licensing and inspection of establishments.

613. Regulations for preparation and sale.

614. Importation regulated and prohibited.

615. Permits for and inspection of imports.

616. Revocation or suspension of licenses or permits.

617. Penalties.

§ 611. Preparation and sale of serum, etc.

No person shall prepare, sell, barter, or exchange in the District of Columbia, in the Territories, or in any place under the jurisdiction]

[Of the United States, or ship or deliver for shipment from one State or Territory or the District of Columbia to any other State or Territory or the District of Columbia—

(1) any worthless, contaminated, dangerous, or harmful virus, serum, toxin, or analogous product intended for use in the treatment of domestic animals; or

(2) any virus, serum, toxin, or analogous product manufactured within the United States and intended for use in the treatment of domestic animals, unless and until such product has been prepared, under and in compliance with regulations prescribed by the Secretary of Agriculture, at an establishment holding an unsuspended and unrevoked license issued by the Secretary under this chapter.

§ 612. Licensing and inspection of establishments

(a) The Secretary of Agriculture may issue, suspend, and revoke licenses for the maintenance of establishments for the preparation of viruses, serums, toxins, and analogous products, for use in the treatment of domestic animals, intended for sale, barter, exchange, or shipment as specified in section 611 of this title.

(b) All licenses issued to establishments under this chapter shall be issued on condition that the licensee shall permit the inspection of such establishments and of such products and their preparation. Any officer, agent, or employee of the Department of Agriculture duly authorized by the Secretary for the purpose may enter and inspect any establishment licensed under this chapter at any hour of the day or night.

§ 613. Regulations for preparation and sale

The Secretary of Agriculture may make and promulgate from time to time such rules and regulations as may be necessary to prevent the preparation, sale, barter, exchange, or shipment as specified in section 611 of this title of any worthless, contaminated, dangerous, or harmful virus, serum, toxin, or analogous product for use in the treatment of domestic animals.

§ 614. Importation regulated and prohibited

No person shall import into the United States, without a permit from the Secretary of Agriculture, any virus, serum, toxin, or analogous product for use in the treatment of domestic animals, and no person shall import into the United States any worthless, contaminated, dangerous, or harmful virus, serum, toxin, or analogous product for use in the treatment of domestic animals.】

[§ 615. Permits for and inspection of imports

(a) The Secretary of Agriculture may issue permits for the importation into the United States of viruses, serums, toxins, and analogous products, for use in the treatment of domestic animals, which are not worthless, contaminated, dangerous, or harmful.

(b) The Secretary may cause to be examined and inspected all viruses, serums, toxins, and analogous products, for use in the treatment of domestic animals, which are being imported or offered for importation into the United States, to determine whether such products are worthless, contaminated, dangerous, or harmful. If it appears that any such product is worthless, contaminated, dangerous, or harmful, such product shall be denied entry and shall be destroyed or returned at the expense of the owner or importer.

§ 616. Revocation or suspension of licenses or permits

The Secretary of Agriculture may suspend or revoke any license or permit issued under this chapter, after opportunity for hearing has been granted the licensee or importer, when the Secretary is satisfied that such license or permit is being used to facilitate or effect the preparation, sale, barter, exchange, or shipment as specified in section 611 of this title, or the importation into the United States, of any worthless, contaminated, dangerous, or harmful virus, serum, toxin, or analogous product for use in the treatment of domestic animals.

§ 617. Penalties

Whoever violates any of the provisions of this chapter shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

PART III.—NARCOTICS

CHAPTER	Sec.
91. Administration	711
93. NARCOTICS IMPORT AND EXPORT.....	761
95. DOMESTIC OPIUM POPPY PRODUCTION CONTROL.....	811

CHAPTER 91—ADMINISTRATION

Sec.

711. Administration of Part III; delegation of functions.
 712. Departmental cooperation in discharge of international obligations.
 713. Cooperation with States in suppression of abuse.
 714. Payments for information.

§ 711. Administration of Part III; delegation of functions

Except as otherwise provided by law, the administration and enforcement of this part are vested in the Secretary of the Treasury. Such Secretary's functions under this part shall be performed by him.]

[or, subject to his direction and control, by such officers, agencies and bureaus of the Department of the Treasury as he designates.

§ 712. Departmental cooperation in discharge of international obligations

The Secretary of the Treasury shall cooperate with the Secretary of State in the discharge of the international obligations of the United States concerning the traffic in narcotic drugs.

§ 713. Cooperation with States in suppression of abuse

(a) The Secretary of the Treasury shall cooperate with the several States in the suppression of the abuse of narcotic drugs in their respective jurisdictions, and to that end he may :

(1) Cooperate in the drafting of such legislation as may be needed to effect the end named ; and

(2) Arrange for the exchange of information concerning the use and abuse of narcotic drugs in said States and for cooperation in the institution and prosecution of cases in the courts of the United States and before the licensing boards and courts of the several States.

(b) The Secretary of the Treasury may prescribe such regulations as may be necessary to carry out the purposes of this section.

§ 714. Payments for information concerning violations of laws

The Secretary of the Treasury may pay to any person, from funds now or hereafter appropriated for the enforcement of the narcotic laws of the United States, for information concerning a violation of any narcotic law of the United States, resulting in a seizure of contraband narcotics, such sum or sums of money as he may deem appropriate, without reference to any moiety or rewards to which such person may otherwise be entitled by law. All payments under authority of this section to any informer in any foreign country shall be made only through an accredited consul or vice consul of the United States stationed in such country, and every such payment shall be supported by a voucher with an accompanying certificate of such consul or vice consul that the payment of the amount stated on the voucher has been made to the informer named, and at the place and time specified on such voucher.

CHAPTER 93—NARCOTICS IMPORT AND EXPORT

Sec.

761. Definitions.

762. Rules and regulations.

763. Importation ; exceptions and restrictions ; forfeitures.

764. Import for purpose of transportation to another country ; transfer between vessels.

765. Penalty for unlawful import, receipt, transportation or sale ; subsequent offenses ; procedure ; evidence ; liability of masters and persons in charge.

766. Presumption and burden of proof as to importation of smoking opium.】

[Sec.

767. Exportation; exception; laws of foreign governments.

768. Penalty for unlawful export.

769. Penalty for having in possession or control on board United States vessel.

770. Penalty for possession, receipt, or concealment of smoking opium; evidence; liability of masters and persons in charge.

771. Share of fine to informer.

772. Short title.

§ 761. Definitions

As used in this chapter, unless the context requires a different meaning—

(a) “narcotic drug”, “isonipecaïne” and “opiate” shall have the same meaning ascribed to these terms as used in the Internal Revenue Code;

(b) “United States”, when used in a geographical sense, includes the several States and Territories, and the District of Columbia;

(c) “Secretary” means the Secretary of the Treasury;

(d) “person” means an individual, partnership, corporation, or association.

§ 762. Rules and regulations

The Secretary shall prescribe and publish all proper rules and regulations to carry into effect the authority vested in him by this chapter.

§ 763. Importation; exceptions and restrictions; forfeitures

(a) No narcotic drug may be imported or brought into the United States or any territory under its control or jurisdiction, except that, under such regulations as the Secretary shall prescribe—

(1) Such amounts of crude opium and coca leaves as the Secretary finds to be necessary to provide for medical and scientific uses may be so imported or brought in; but no crude opium may be imported or brought in for the purpose of manufacturing heroin, and the Secretary may limit further or prohibit entirely the importation or bringing in of crude opium, to the extent that he finds that the medical and scientific needs of the United States for opium or opium products are being, or can be, supplied by opium poppies produced in accordance with chapter 95 of this title; and

(2) Amounts of coca leaves in addition to the amount permitted under paragraph (1) of this subsection may be imported or brought in; but after the entry of such additional amounts into the United States or any territory under its control or jurisdiction, all cocaine, ecgonine, and all salts, derivatives, and preparations from which cocaine or ecgonine may be synthesized or made, contained therein.]

[shall be destroyed under the supervision of the Secretary or his authorized representative.

(b) All narcotic drugs imported under subsection (a) of this section shall be subject to the duties which are now or may hereafter be imposed upon such drugs when imported.

(c) Any narcotic drug imported or brought into the United States or any territory under its control or jurisdiction, contrary to law, shall—

(1) If smoking opium or opium prepared for smoking, be seized and summarily forfeited to the United States Government without the necessity of instituting forfeiture proceedings of any character; or

(2) If any other narcotic drug be seized and forfeited to the United States Government, without regard to its value, in the manner provided by sections 1607 and 1608 of Title 19, or the provisions of law hereafter enacted which are amendatory of, or in substitution for, such sections.

(d) Any narcotic drug which is forfeited in a proceeding for condemnation or not claimed under sections 1607 and 1608 of Title 19, or which is summarily forfeited as provided in subsection (c) of this section, shall be placed in the custody of the Secretary and in his discretion be destroyed or delivered to some agency of the United States Government for use for medical or scientific purposes.

§ 764. Import for purpose of transportation to another country; transfer between vessels

No smoking opium or opium prepared for smoking shall be admitted into the United States or into any territory under its control or jurisdiction for transportation to another country, or be transferred or transshipped from one vessel to another vessel within any waters of the United States for immediate exportation or for any other purpose; and except with the approval of the Secretary, no other narcotic drug may be so admitted, transferred, or transshipped.

§ 765. Penalty for unlawful import, receipt, transportation or sale; subsequent offenses; procedure; evidence; liability of masters and persons in charge

(a) Whoever fraudulently or knowingly imports or brings any narcotic drug into the United States or any territory under its control or jurisdiction, contrary to law, or receives, conceals, buys, sells, or in any manner facilitates the transportation, concealment, or sale of any such narcotic drug after being imported or brought in, knowing the same to have been imported contrary to law, or conspires to commit any of such acts in violation of the laws of the United States, shall be]

[fined not more than \$2,000 and imprisoned not less than two or more than five years. For a second offense, the offender shall be fined not more than \$2,000 and imprisoned not less than five or more than ten years. For a third or subsequent offense, the offender shall be fined not more than \$2,000 and imprisoned not less than ten or more than twenty years. Upon conviction for a second or subsequent offense, the imposition or execution of sentence shall not be suspended and probation shall not be granted. For the purpose of this subsection, an offender shall be considered a second or subsequent offender, as the case may be, if he previously has been convicted of any offense the penalty for which is provided in this subsection or in section 2557 (b) (1) of the Internal Revenue Code, or if he previously has been convicted of any offense the penalty for which was provided in section 9, chapter 1, of the Act of December 17, 1914 (38 Stat. 789), as amended; section 1, chapter 202 of the Act of May 26, 1922 (42 Stat. 596), as amended; section 12, chapter 553, of the Act of August 2, 1937 (50 Stat. 556), as amended; or section 2557 (b) (1) or 2596 of the Internal Revenue Code, as amended. After conviction, but prior to pronouncement of sentence, the court shall be advised by the United States attorney whether the conviction is the offender's first or a subsequent offense. If it is not a first offense, the United States attorney shall file an information setting forth the prior convictions. The offender shall have the opportunity in open court to affirm or deny that he is identical with the person previously convicted. If he denies the identity, sentence shall be postponed for such time as to permit a trial before a jury on the sole issue of the offender's identity with the person previously convicted. If the offender is found by the jury to be the person previously convicted, or if he acknowledges that he is such person, he shall be sentenced as prescribed in this subsection.]

Whenever on trial for a violation of this subsection the defendant is shown to have or to have had possession of the narcotic drug, such possession shall be deemed sufficient evidence to authorize conviction unless the defendant explains the possession to the satisfaction of the jury.

(b) No master of any vessel or other water craft, or person in charge of a railroad car or other vehicle, shall be liable under subsection (a) of this section if he satisfies the jury that he had no knowledge of and used due diligence to prevent the presence of the narcotic drug in or on such vessel, water craft, railroad car, or other vehicle; but the narcotic drug shall be seized, forfeited, and disposed of as provided in subsections (c) and (d) of section 763 of this title.]

【§ 755. Presumption and burden of proof as to importation of smoking opium

All smoking opium or opium prepared for smoking found within the United States shall be presumed to have been imported contrary to law, and the burden of proof shall be on the claimant or the accused to rebut such presumption.

§ 767. Exportation; exceptions; laws of foreign governments

(a) No person subject to the jurisdiction of the United States Government shall export or cause to be exported from the United States, or from territory under its control or jurisdiction, any narcotic drug to any other country except to a country which has ratified and become a party to the convention and final protocol between the United States Government and other powers for the suppression of the abuses of opium and other drugs, commonly known as the International Opium Convention of 1912, and then only if—

(1) such country has instituted and maintains, in conformity with that convention, a system, which the Secretary deems adequate, of permits or licenses for the control of imports of such narcotic drugs;

(2) the narcotic drug is consigned to an authorized permittee; and

(3) there is furnished to the Secretary proof deemed adequate by him that the narcotic drug is to be applied exclusively to medical and scientific uses within the country to which exported, that it will not be reexported from such country, and that there is an actual shortage of and a demand for the narcotic drug for medical and scientific uses within such country.

(b) The exceptions contained in subsection (a) of this section shall not apply to smoking opium or opium prepared for smoking, the exportation of which is absolutely prohibited.

(c) The Secretary of State shall request all foreign governments to communicate through the diplomatic channels copies of the laws and regulations promulgated in their respective countries which prohibit or regulate the importation and shipment in transit of any narcotic drug and, when received, shall advise the Secretary thereof.

§ 768. Penalty for unlawful export

Any person who exports, or conspires to export, any narcotic drugs in violation of section 767 of this title shall be fined not more than \$5,000 or imprisoned not more than two years, or both.】

§ 769. Penalty for having in possession or control on board United States vessel

(a) Any person who brings on board, or has in his possession or control on board, any vessel of the United States, while engaged on a foreign voyage, any narcotic drug not constituting a part of the cargo entered in the manifest or part of the ship stores, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

(b) As used in subsection (a) of this section, "narcotic drug" means any narcotic drug defined by section 761 of this title, or "marihuana" as defined in the Internal Revenue Code.

§ 770. Penalty for possession, receipt, or concealment of smoking opium; evidence; liability of masters and persons in charge

(a) Any person, subject to the jurisdiction of the United States, who, either as principal or as accessory, receives or has in his possession, or conceals on board of or transports on any foreign or domestic vessel or other water craft or railroad car or other vehicle destined to or bound from the United States or any Possession thereof, any smoking opium or opium prepared for smoking, or who, having knowledge of the presence in or on any such vessel, water craft, or vehicle of such article, does not report the same to the principal officer thereof, shall be punished as provided in section 765 of this title. Whenever on trial for violation of this section the defendant is shown to have or to have had possession of such opium, such possession shall be deemed sufficient evidence to authorize conviction, unless the defendant shall explain the possession to the satisfaction of the jury.

(b) No master of a vessel or other water craft or person in charge of a railroad car or other vehicle shall be liable under this section if he satisfies the jury that he had no knowledge and used due diligence to prevent the presence of such article in or on such vessel, water craft, car, or other vehicle; but any such article shall be forfeited and destroyed.

§ 771. Share of fine to informer

One-half of any fine recovered from any person or persons convicted of an offense under this chapter may be paid to the person or persons giving information leading to such recovery, and one-half of any bail forfeited and collected in any proceedings brought under this chapter may be paid to the person or persons giving the information which]

led to the institution of such proceedings, if so directed by the court exercising jurisdiction in the case. No payment for giving information shall be made to any officer or employee of the United States.

§ 772. Short title

This chapter may be cited as the "Narcotic Drugs Import and Export Act".

CHAPTER 95—DOMESTIC OPIUM POPPY PRODUCTION CONTROL

Sec.

811. Declaration of policy; assistance from Federal agencies.

812. Definitions.

813. Rules and regulations.

814. Licenses; qualifications; limitations; revocation and renewal.

815. Distribution by Federal Government; personnel of Treasury Department excepted from prohibitions.

816. Production, purchase, manufacture, sale or transportation by unlicensed persons.

817. Seizure and forfeiture of opium poppies illegally possessed; disposition.

818. Penalties.

819. Pleading, presumptions, and burden of proof.

820. Application to, and of, other laws.

821. Territorial application.

822. Short title.

§ 811. Declaration of policy; assistance from Federal agencies

(a) It is the purpose of this chapter to—

(1) discharge more effectively the obligations of the United States under the International Opium Convention of 1912, and the Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs of 1931, as amended by the Protocol signed at Lake Success, New York, on December 11, 1946;

(2) promote the public health and the general welfare;

(3) regulate interstate and foreign commerce in opium poppies; and

(4) safeguard the revenue derived from taxation of opium and opium products.

(b) Other departments, bureaus, and independent establishments of the Government, when requested by the Secretary of the Treasury, shall furnish such assistance, including technical advice, as will aid in carrying out the purposes of this chapter.

§ 812. Definitions

As used in this chapter—

1. "produce" or "production" includes the planting, cultivation, growth, harvesting, and any other activity which facilitates the growth of the opium poppy;

2. "opium poppy" includes the plant *Papaver somniferum*, any other plant which is the source of opium or opium products, and any part of any such plant;]

【3. “opium” includes the inspissated juice of the opium poppy, in crude or refined form;

4. “opium products” includes opium and all substances obtainable from opium or the opium poppy, except the seed thereof;

5. “Secretary” means the Secretary of the Treasury;

6. “person” means an individual, company, partnership, corporation, or association.

§ 813. Rules and regulations

The Secretary may prescribe and publish all necessary rules and regulations for carrying out the provisions of this chapter.

§ 814. Licenses; qualifications; limitations; revocation and renewal

(a) Any person who desires to procure a license to produce the opium poppy, or to manufacture opium or opium products, shall make application therefor in such manner and form as the Secretary shall by rules and regulations prescribe.

(b) A license to produce the opium poppy shall be issued only to a person who, in the opinion of the Secretary, is determined to be a person—

(1) of good moral character;

(2) of suitable financial standing and farming experience;

(3) who owns or controls suitable farm land to be used as a production area, in such locality, as will, in the judgment of the Secretary, render reasonably probable the efficient and diligent performance of the operations of producing the opium poppy in appropriate number and quality; and

(4) who complies with such additional requirements as the Secretary shall deem and prescribe as reasonably necessary for the controlled production and distribution of the opium poppy.

Each such license shall be nontransferable and shall be valid only to the extent of the production area and maximum weight of opium poppy yield specified in the license, shall state the locality of the production area, and shall be effective for a period of one year from the date of issue and may be renewed, in the discretion of the Secretary, for a like period.

(c) A license to manufacture opium or opium products shall be issued only to a person who, in the opinion of the Secretary, is determined to be a person—

(1) of good moral character;

(2) who possesses a method and facilities, deemed satisfactory】

【to the Secretary, for the efficient and economical extraction of opium or opium products;

(3) who has such experience in manufacturing and marketing other medicinal drugs as to render reasonably probable the orderly and lawful distribution of opium or opium products of suitable quality to supply medical and scientific needs; and

(4) who complies with such additional requirements as the Secretary shall deem and prescribe as reasonably necessary for the controlled production, manufacture, and distribution of the opium poppy, opium, or opium products.

Such license shall be nontransferable, shall state the maximum quantity of opium poppies purchasable or obtainable thereunder, and shall be effective for a period of one year from the date of issue and may be renewed, in the discretion of the Secretary, for a like period.

(d) All licenses issued under this section shall be limited to such number, localities, and areas as the Secretary shall determine to be appropriate to supply the medical and scientific needs of the United States for opium or opium products, with due regard to provision for reasonable reserves. Nothing contained in this section shall be construed as requiring the Secretary to issue or renew any license or licenses under the provisions hereof.

(e) The Secretary may revoke or refuse to renew any license issued under this section, if, after due notice and opportunity for hearing, he finds such action to be in the public interest, or finds that the licensee has failed to maintain the requisite qualifications.

§ 815. Distribution by Federal Government; personnel of Treasury Department excepted from prohibitions

(a) The Secretary, whenever in his opinion the medical and scientific needs of the Nation will not be met by importation or licensed production, shall provide for the acquisition of opium poppy seed, for the production of the opium poppy, for the manufacture of opium or opium products, and for the use, sale, giving away, or other proper distribution of opium poppy seed, opium poppies, opium, or opium products by the United States Government either directly or through and with the approval of the head of any agency of the Government, including any Government-owned or controlled corporation.

(b) None of the prohibitions contained in this chapter shall apply to any officer or employee of the United States Treasury Department, who in the performance of his official duties and within the scope of his authority engages in any of the businesses or activities herein described, nor to any other officer or employee of the United States】

[Government, who in the performance of his official duties, within the scope of his authority and with the approval of the Secretary, engages in any of the businesses or activities herein described.

§ 816. Production, purchase, manufacture, sale or transportation by unlicensed persons

(a) No person who is not the holder of a proper license authorizing him to produce the opium poppy, duly issued to him by the Secretary, shall produce or attempt to produce the opium poppy, or permit the production of the opium poppy in or upon any place owned occupied, used, or controlled by him.

(b) Except as otherwise provided in subsection (e) of this section no person shall—

(1) purchase or in any other manner obtain the opium poppy, unless he is the holder of a proper license to produce the opium poppy or to manufacture opium or opium products, duly issued to him by the Secretary; or

(2) sell, transfer, convey any interest in, or give away the opium poppy to any person not so licensed.

(c) No person who is not the holder of a proper license authorizing him to manufacture opium or opium products, duly issued to him by the Secretary, shall manufacture, compound, or extract opium or opium products from the opium poppy.

(d) No person who is not the holder of a proper license authorizing him to produce the opium poppy or to manufacture opium or opium products, duly issued to him by the Secretary, shall send, ship, carry, transport, or deliver any opium poppies within any State, Territory, the District of Columbia, the Canal Zone, or insular possession of the United States, or from any State, Territory, the District of Columbia, the Canal Zone, or insular possession of the United States, into any other State, Territory, the District of Columbia, the Canal Zone, or insular possession of the United States. Nothing contained in this subsection shall apply to any common carrier engaged in transporting opium poppies pursuant to an agreement with a person duly licensed under section 814 of this title as a producer of the opium poppy, or as a manufacturer of opium or opium products, or to any employee of any person so licensed while acting within the scope of his employment.

(e) No person shall sell, transfer, convey any interest in, or give away, except to a person duly licensed under section 814 of this title, opium poppy seed for the purpose of opium poppy production, nor**]**

[shall any unlicensed person purchase or otherwise obtain such seed for such purpose; but the seed obtained from opium poppies produced by licensed producers may be sold or transferred by such producers to unlicensed persons, and may thereafter be resold or transferred, for ultimate consumption as a spice seed or for the manufacture of oil.

§ 817. Seizure and forfeiture of opium poppies illegally possessed; disposition

(a) Any opium poppies produced or otherwise obtained in violation of any of the provisions of this chapter shall be seized by, and forfeited to, the United States.

(b) The failure, upon demand by the Secretary, or his duly authorized agent, of the person in occupancy or control of land or premises upon which opium poppies are being produced or stored to produce an appropriate license, or proof that he is the holder thereof, shall constitute authority for the seizure and forfeiture of such opium poppies.

(c) The Secretary, or his duly authorized agent, shall have authority to enter upon any land (but not a dwelling house, unless pursuant to a search warrant issued according to law) where opium poppies are being produced or stored, for the purposes of enforcing the provisions of this chapter.

(d) Any opium poppies, the owner or owners of which are unknown, seized by or coming into the possession of the United States in the enforcement of this chapter shall be forfeited to the United States.

(e) The Secretary shall destroy any opium poppies seized by, and forfeited to, the United States under this section, or deliver them for medical or scientific purposes to any department, bureau, or other agency of the United States Government, upon proper application therefor under such regulations as he may prescribe.

§ 818. Penalties

(a) Any person who violates any provision of this chapter shall be fined not more than \$2,000 or imprisoned not more than five years, or both.

(b) Any person who willfully makes, aids, or assists in the making of, or procures, counsels, or advises in the preparation or presentation of, a false or fraudulent statement in any application for a license under the provisions of section 814 of this title shall (whether or not such false or fraudulent statement is made by or with the knowledge or consent of the person authorized to present the application) be fined not more than \$2,000 or imprisoned not more than one year, or both.

§ 819. Pleading, presumptions, and burden of proof

It shall not be necessary to negative any exemptions set forth in this]

Chapter in any complaint, information, indictment, or other writ or proceeding laid or brought under this chapter and the burden of proof of any such exemption shall be upon the defendant. In the absence of the production of an appropriate license by the defendant, he shall be presumed not to have been duly licensed in accordance with section 814 of this title and the burden of proof shall be on the defendant to rebut such presumption.

§ 820. Application to, and of, other laws

Nothing in this chapter shall be construed to repeal any provisions of the Internal Revenue Code, but nothing in that Code shall apply to the production, sale, or transfer of opium poppies, when such opium poppies are lawfully produced, sold, or transferred by persons duly and properly licensed under section 814 of this title in conformity with the regulations issued pursuant to such section.

§ 821. Territorial application

The provisions of this chapter shall apply to the several States, the District of Columbia, the Territory of Alaska, the Territory of Hawaii, the Canal Zone, Puerto Rico, and the other insular possessions of the United States.

§ 822. Short title

This chapter may be cited as the "Opium Poppy Control Act".

SEC. 2. Section 1 of the Act approved May 29, 1884 (ch. 60, 23 Stat. 31; 7 U. S. C., sec. 391), as amended, is amended to read as follows:

"SEC. 1. There shall be in the Department of Agriculture a Bureau of Animal Industry. The Secretary of Agriculture is authorized to appoint a chief thereof, who shall be a competent veterinary surgeon. The functions of the Bureau of Animal Industry shall be vested in the Secretary of Agriculture or, subject to his direction and control, in such officers and agencies of the Department of Agriculture as he may designate. Such functions shall include the duty to investigate and report upon the condition of the domestic animals and poultry of the United States, their protection and use, and also to inquire into and report the causes of communicable diseases among them, and the means for the prevention and cure of the same, and to collect such information on these subjects as shall be valuable to the agricultural and commercial interests of the country."

SEC. 3. The first paragraph of section 1 of the Act approved March 28, 1928 (chapter 266, 45 Stat. 374; 31 U. S. C., sec. 529a), as amended, is amended (1) by striking out "Division of Disbursement", as now appearing in such paragraph, and, in lieu thereof, inserting "Fiscal Service"; and (2) by striking out, after the first semicolon, "the Act"]

Entitled ‘An Act to amend an Act entitled “An Act to prohibit the importation and use of opium for other than medicinal purposes”, approved February 9, 1909’, as amended, known as the ‘Narcotic Drugs Import and Export Act’ ”, and inserting in lieu thereof “chapter 93 of Title 21, United States Code”.

SEC. 4. (a) Subsection (a) of section 302 of the Act approved July 1, 1944 (chapter 373, Title III, 58 Stat. 692; 42 U. S. C., sec. 242) is amended by striking out the reference “the Narcotic Drugs Import and Export Act, as amended”, appearing at the end of such subsection, and inserting in lieu thereof “chapter 93 of Title 21, United States Code”.

(b) Subsection (d) of section 7 of the Act approved August 9, 1939 (chapter 618, 53 Stat. 1293; 49 U. S. C., sec. 787 (d)), as amended, is amended by striking out the reference “the Narcotic Drugs Import and Export Act,” appearing in such subsection.

SEC. 5. The opening clause of subsection (f) of section 15 of the Federal Trade Commission Act (15 U. S. C., sec. 55 (f)) as amended, which subsection was added to such section 15 by section 4 (b) of the Act approved March 16, 1950 (chapter 61, 64 Stat. 21), is amended by striking out “and section 407 of the Federal Food, Drug, and Cosmetic Act, as amended”.

SEC. 6. If any part of Title 21, United States Code, as set out in section 1 of this Act, shall be held invalid, the remainder of such title shall not be affected thereby.

SEC. 7. No inference of a legislative construction is to be drawn by reason of the chapter in Title 21, United States Code, as set out in section 1 of this Act, in which any section is placed, nor by reason of the catchlines used in such title.

SEC. 8. All orders, rules, and regulations in effect on the effective date of this Act, which were adopted under the authority of the Acts of Congress from which Title 21, United States Code, as set out in section 1 of this Act, is derived, shall continue in effect until modified, amended, superseded, or repealed under the authority of such title.

SEC. 9. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of Title 21, United States Code, as set out in section 1 of this Act.

SEC. 10. The provisions of this Act shall take effect on January 1, 1955.

SEC. 11. The sections or parts thereof of the Statutes at Large enumerated in the following schedule are hereby repealed. Any rights or]

Liabilities now existing under such sections or parts thereof shall not be affected by this repeal.

Statutes at Large						U. S. Code	
Date	Chapter	Title	Section	Volume	Page	Title	Section
1884—May 29	60		2, 3, 4, 5, 6, 7, 8, 9	23	31-33	21	112, 113, 114, 117-120, 130
Do	60		10	23	33	{ 7	391 note
1887—Feb. 23	210		1, 2, 3	24	409	21	112 note
1890—Aug. 30	839		1, 2, 3	26	414, 415	21	191-193
Do	839		4, 6, 7, 8, 9, 10	26	415-417	21	1 note, 71 note
1897—Mar. 2	358		1, 2, 3, 4, 5, 6, 7, 8, 9, 10	29	604-607	21	18, 101-105 41-46, 47-50
1902—May 9	784		1	32	193	21	25
July 1	1357		1, 2	32	632	21	16, 17
1903—Feb. 2	349		1, 2, 3	32	791, 792	21	111, 112, 113, 120-122
1905—Mar. 3	1496		1, 2, 3, 4, 6	33	1264, 1265	21	123-127
1906—June 30	3913 (part)			34	¹ 679	21	95
1907—Mar. 4	2907 (part)			34	² 1260-1265	21	71-92
1908—May 16	170			35	163	21	41
May 23	192 (part)			35	³ 254	21	94a
1909—Feb. 9	⁴ 100		1, 2, 3, 4, 5, 6, 7, 8, 9	35	614	21	171-173, 174, 176-184, 185
1910—May 26	256 (part)			36	⁵ 440	21	131
1913—Mar. 4	145 (part)			37	⁶ 832, 833	21	151-158
1914—June 30	131 (part)			38	⁷ 419	21	128
Do	131 (part)			38	⁸ 420	21	94
1915—Mar. 3	74		1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13.	38	817-822	21	201-215
Mar. 4	144 (part)			38	⁹ 1102	21	24
1917—Aug. 10	52		9	40	275	21	106, 107
1918—Nov. 21	212		3	40	1048, 1049	21	106, 107
1919—July 24	26 (part)			41	¹⁰ 241	21	96
Do	26 (part)			41	¹¹ 271	21	321b
1920—May 31	217 (part)			41	¹² 699	21	116
Do	217 (part)			41	¹³ 712, 713	21	41-44, 46-50
1923—Mar. 4	262		1, 2, 3	42	1486, 1487	21	61-63
Do	262		¹⁴ 4			21	64
Do	268			42	1500	21	321a
1926—June 28	700		1, 2	44	774, 775	21	104, 115, 115 note
1927—Jan. 18	39 (part)			44	¹⁵ 984	21	26
Feb. 15	155		1, 2, 3, 4, 5, 6, 7, 8, 9	44	1101-1103	21	141-149
Mar. 4	489		1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12.	44	1406-1410	15	401-409, 409 note, 410, 411
1928—Feb. 7	30			45	59	{ 7	¹⁶ 391
May 16	572 (part)			45	¹⁷ 548	21	111-115, 117- 126, 128, 130
1929—Feb. 16	22 (part)			45	¹⁸ 1198	21	26
1930—June 14	488		6, 7, 8	46	587	21	173a, 197, 198
July 3	829			46	850	21	199
1931—Feb. 28	348			46	1460	21	104
1934—June 22	712			48	1204	21	372a
June 26	756		¹⁹ 2	48	1225	21	95
1935—Aug. 27	739			49	871	21	372a

¹ Only the second full paragraph on this page, of which the first sentence was classified to the United States Code, 1946 ed., as section 95 of title 21 thereof, and the remainder was not classified to such Code.

² Commencing with the paragraph headed "For meat inspection," on page 1260, and continuing on to the bottom of such page, inclusive; all that appears on pages 1261, 1262, 1263 and 1264, including the paragraph which commences on page 1264 and ends on page 1265; and the first full paragraph on page 1265.

³ Only the proviso which commences near the bottom of this page, and ends on page 255 with the word "certified".

⁴ As amended by Acts Jan. 17, 1914, ch. 9, 38 Stat. 275-277; May 26, 1922, ch. 202, §§ 1-4, 42 Stat. 596-598; June 7, 1924, ch. 352, 43 Stat. 657; July 1, 1944, ch. 377 § 8, 58 Stat. 721; Mar. 8, 1946, ch. 81, § 7, 60 Stat. 39; Nov. 2, 1951, ch. 666, §§ 1, 5 (1), 65 Stat. 767, 769; June 27, 1952, ch. 477, § 403 (a) (10), 66 Stat. 279.

⁵ Only the third paragraph under the heading "Miscellaneous" appearing on this page.

⁶ All of the paragraph commencing on page 832, "That from and after July first", and ending on page 833, except the final sentence of such paragraph, commencing, "That there is hereby appropriated".

⁷ Only the first proviso appearing on this page.

⁸ Only the proviso in the paragraph commencing, "Meat inspection, Bureau of Animal Industry", and appearing on this page.

⁹ Only the proviso appearing on this page.

¹⁰ All of the paragraph beginning "Meat inspection, Bureau of Animal Industry", appearing on this page except the first sentence thereof.

¹¹ All of the fourth full paragraph appearing on this page.

¹² Only the last two provisos in the paragraph which begins on page 698 and ends on page 699, said two provisos appearing on page 699.

¹³ All of the paragraph which begins on page 712 and ends on page 713, except the final sentence of such paragraph.

¹⁴ As added by Act Aug. 27, 1935, ch. 743, 49 Stat. 885.

¹⁵ Only the proviso in the paragraph headed "Meat inspection", appearing on this page.

¹⁶ The amendments made by the Act of Feb. 7, 1928, ch. 30, to section 1 of Act May 29, 1884, ch. 60 (23 Stat. 31; 7 U. S. C., sec. 391), are also repealed, but such repeal shall not be construed as repealing such section 1 of the Act of 1884 (7 U. S. C., sec. 391) which, as amended by another section of this Act, shall remain in full force and effect.

¹⁷ The first proviso appearing on this page.

¹⁸ The proviso in the paragraph headed "Meat inspection," appearing on this page.

¹⁹ Only that part of this section which amends that part of Act June 30, 1906, ch. 3913, 34 Stat. 679 relating to a permanent appropriation for the inspection of cattle, sheep, swine, and goats and the meat and meat food products thereof, and expenses incidental to such inspection, including the proviso in subsection (a), and item (3) of subsection (b), of such section 2.]

[Statute at Large						U. S. Code	
Date	Chapter	Title	Section	Volume	Page	Title	Section
1938—June 25.....	675	-----	All	52	1040-1059	21	301, 321, 321a, 321b, 331-337, 341-346, 351-357, 361-364, 371, 372, 372a, 373-376, 381, 391, 392, and notes thereunder, and notes preceding 61, 141
June 29.....	810	-----		52	1235	21	91
1939—May 2.....	107	I	1 (part)	53	²⁰ 631	21	376 note
June 23.....	242	-----	1, 2, 3	53	853, 854	21	342 note, 343 note, 351 note, 352, 352 note, 361 note, 362 note
1940—June 27.....	437	I	101 (part)	54	²¹ 632	21	46a
1941—July 1.....	269	II (part)	-----	55	²² 478	21	46a
July 11.....	289	-----	1, 2	55	584	21	184a, 184a note
Dec. 22.....	613	-----	1, 2, 3, 4	55	851, 852	21	331, 352, 356, 356 note
1942—Dec. 11.....	720	-----	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17	56	1045-1049	21	188, 188 note, 188a-188n
1943—July 12.....	221	II	1 (part)	57	²³ 500	21	372a
1944—Mar. 2.....	77	-----	-----	58	108	21	321c
1944—Sept. 21.....	412	I	101 (a)	58	734	21	114a
1945—July 6.....	281	-----	1, 2, 3	59	463, 464	21	331, 352, 357
1947—Feb. 28.....	8	-----	1, 2, 3, 4	61	7, 8	21	114b, 114b note, 114e, 114d
Mar. 10.....	16	-----	1, 2, 3	61	11, 12	21	331, 352, 357
July 30.....	356	I	1 (part)	61	²⁴ 531, 532	21	97, 97a, 97b, 97e, 97d
1948—Apr. 24.....	229	-----	-----	62	198	21	113a
June 5.....	423	-----	-----	62	344	21	98
June 16.....	477	-----	1, 2	62	458	21	114e, 114f
June 24.....	613	-----	1, 2	62	582	21	331, 334
June 25.....	646	-----	5	62	986	21	193
1949—June 29.....	280	I	101 (part)	63	²⁵ 331	-----	-----
July 13.....	305	-----	1, 2	63	409, 410	21	352, 357
Oct. 18.....	696	-----	1, 2, 3	63	882, 883	21	381
1950—Mar. 16.....	61	-----	3, 6	64	20, 22	21	331, 342, 347, 347a, 347b
1951—Oct. 26.....	578	-----	1, 2, 3	65	648, 649	21	333, 333 note, 353, 353 note
Oct. 30.....	637	-----	1, 2	65	693, 694	21	114a, 114a-1
Nov. 2.....	666	-----	1	65	767, 768	21	174
1953—Aug. 5.....	334	-----	1, 2	67	389	21	352, 357
Aug. 7.....	350	-----	1, 2, 3	67	476, 477	21	331, 334, 374
Aug. 8.....	381	-----	-----	67	493, 494	21	114a
Do.....	394	-----	8	67	506	21	171
1954—Apr. 15.....	143	-----	1, 2	68	54, 55	21	341, 371

²⁰ In the paragraph beginning on page 631 and ending on page 632, only the words reading, "which section is hereby made immediately effective" appearing on page 631.

²¹ Only the proviso in the paragraph headed "Food and Drug Administration", appearing on this page.

²² Only the proviso in the paragraph beginning "Enforcement of Tea Importation Act:" appearing on this page.

²³ Only the following words in the second paragraph appearing on this page: "which may hereafter be cited as section 702A of the Federal Food, Drug, and Cosmetic Act".

²⁴ All of the paragraph beginning "Meat inspection:", which commences on page 531 and ends on page 532.

²⁵ The two provisos in the last paragraph on this page.】

That title 21 of the United States Code, entitled "Food, Drugs, and Cosmetics", is hereby revised, codified, and enacted into law, and may be cited as "Title 21, United States Code, §—", as follows:

TITLE 21—FOOD, DRUGS, AND COSMETICS

Part	Sec.
I. FOOD AND DRUGS GENERALLY.....	1
II. ANIMALS, POULTRY AND MEATS.....	451
III. NARCOTICS.....	711

PART I—FOOD, DRUGS, AND COSMETICS GENERALLY

Chapter	Sec.
1. Food and Drug Administration-----	1
3 Food, Drugs, and Cosmetics-----	41
5. Milk and Cream-----	201
7. Tea Importation-----	261
9. Caustic Poisons-----	311

CHAPTER 1—FOOD AND DRUG ADMINISTRATION

Sec.

1. Establishment.
2. Functions of Secretary of Health, Education, and Welfare.
3. Board of Tea Experts.
4. Board of Tea Appeals.

§ 1. Establishment

The Food and Drug Administration shall continue as a constituent organization of the Department of Health, Education, and Welfare.

§ 2. Functions of Secretary of Health, Education, and Welfare

The Secretary of Health, Education, and Welfare shall perform the functions prescribed for him under Part I of this title, and may from time to time make such provisions as he deems appropriate authorizing the performance of any of the functions of the Secretary by any other officer, or by any agency or employee, of the Department.

§ 3. Board of Tea Experts

Before February 16 of each year, the Secretary of Health, Education, and Welfare shall appoint a Board of Tea Experts of seven members who are experts in teas, for a term of one year subject to removal by the Secretary. The Secretary shall fill vacancies by appointment for an unexpired term.

The Board shall appoint a presiding officer, who shall be the medium of all communications to or from the Board. Each member of the Board shall receive as compensation the sum of \$50 per annum, and necessary expenses in connection with his duties under this title, to be paid by the Secretary of Health, Education, and Welfare.

§ 4. Board of Tea Appeals

The United States Board of Tea Appeals shall consist of three employees of the Department of Health, Education, and Welfare designated by the Secretary of Health, Education, and Welfare.

CHAPTER 3—FOOD, DRUGS, AND COSMETICS

SUBCHAPTER I—DEFINITIONS, DETERMINATIONS, AND REPRESENTATIONS

Sec.

- 41. Definitions.
- 42. Determination of misbranding.
- 43. Representation as antiseptic.
- 44. Short title.

SUBCHAPTER II—FOOD

- 51. Definitions and standards for food; procedure governing establishment; objections; hearings; applicability of other provisions.
- 52. Adulterated food.
- 53. Misbranded food.
- 54. Exemptions.
- 55. Tolerances for poisonous ingredients; certification of coal-tar colors for foods.
- 56. Tolerances for pesticide chemicals in or on raw agricultural products.
- 57. Emergency permit control.
- 58. Sea food; examination on request of packer; fees.
- 59. Colored oleomargarine; Congressional finding as to sale or serving.
- 60. Colored oleomargarine; sale in State where produced; packaging and labeling; service in restaurants.
- 61. Oleomargarine, butterine, imitation butter or cheese; application of State laws.
- 62. Exemption of meats and meat food products.

SUBCHAPTER III—DRUGS AND DEVICES

- 71. Adulterated drugs and devices.
- 72. Misbranded drugs and devices.
- 73. Exemptions.
- 74. Certification of coal-tar colors for drugs.
- 75. New drugs.
- 76. Certification of drugs containing insulin.
- 77. Certification of drugs containing certain antibiotics.

SUBCHAPTER IV—COSMETICS

- 91. Adulterated cosmetics.
- 92. Misbranded cosmetics.
- 93. Exemptions.
- 94. Certification of coal-tar colors for cosmetics.

SUBCHAPTER V—IMPORTS AND EXPORTS

- 111. Examination and refusal of imports.
- 112. Exports adulterated or misbranded.
- 113. Suspension of adulterated imports.

SUBCHAPTER VI—ADMINISTRATIVE PROVISIONS

- 131. Regulations; hearings; judicial review.
- 132. Examinations and investigations.
- 133. Records of interstate shipment.
- 134. Factory inspection notice; reports; receipts for samples; copies of analyses.
- 135. Publicity.
- 136. Cost of certification of coal-tar colors.
- 137. Revision of Pharmacopeia; development of analyses and tests.

SUBCHAPTER VII—ENFORCEMENT AND PENALTIES

- 151. Prohibited acts.
- 152. Penalties; exemptions.
- 153. Injunctions.
- 154. Libel for condemnation.
- 155. Hearing before violation reported.
- 156. Report of minor violations.
- 157. Proceedings in name of United States; subpoenas.

SUBCHAPTER I—DEFINITIONS, DETERMINATIONS,
REPRESENTATIONS, AND SHORT TITLE

§ 41. *Definitions*

As used in this chapter—

(a) “Secretary” means the Secretary of Health, Education, and Welfare.

(b) “Department” means the Department of Health, Education, and Welfare.

(c) “Butter” means the food product usually known as butter, and which is made exclusively from milk or cream, or both, with or without common salt, and with or without additional coloring matter, and containing not less than 80 per centum by weight of milk fat, all tolerances having been allowed for.

(d) “Cosmetic” means articles other than soap, (1) intended to be rubbed, poured, sprinkled, or sprayed on, or otherwise applied to or introduced into the human body for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) intended for use as a component of any such articles.

(e) “Device”, except when used in sections 42, 53 (f), 72 (c), 92 (c), and 151 (i) of this title, means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended (1) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or (2) to affect the structure or any function of the body of man or other animals.

(f) “Drug” means (1) articles recognized in an official compendium; and (2) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (3) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and (4) articles intended for use as a component of any articles specified in clauses (1), (2), or (3) of this paragraph; but does not include devices or their components, parts, or accessories.

(g) “Food” means (1) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article.

(h) “Interstate commerce” means (1) commerce between any State or Territory and any place outside thereof, and (2) commerce within the District of Columbia or within any other Territory not organized with a legislative body.

(i) “Label” means a display of written, printed, or graphic matter upon the immediate container other than a package liner, of any

article; and a requirement made by or under authority of this chapter that any word, statement, or other information appear on the label shall not be considered to be complied with unless it also appears on or is easily legible through the outside container or wrapper, if any there be, of the retail package of such article.

(j) "Labeling" means all labels and other written, printed, or graphic matter (1) upon any article or any of its containers or wrappers, or (2) accompanying such article.

(k) "New drug" means—

(1) Any drug the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety of drugs, as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof, unless at any time prior to June 25, 1938, it was subject to the Food and Drugs Act of June 30, 1906, as amended, and at such time its labeling contained the same representations concerning the conditions of its use; or

(2) Any drug the composition of which is such that, as a result of investigations to determine its safety for use under such conditions, it has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.

(l) "Nonfat dry milk solids" or "defatted milk solids" is the product resulting from the removal of fat and water from the sweet milk of cows, and containing (1) the lactose, milk proteins, and milk minerals in the same relative proportions as in the fresh milk from which made, (2) not over 5 per centum by weight of moisture, and (3) not over 1½ per centum by weight of fat content unless otherwise indicated.

(m) "Official compendium" means the official United States Pharmacopœia, official Homœopathic Pharmacopeia of the United States, official National Formulary, or any supplement to any of them.

(n) "Package" includes wrapped meats inclosed in papers or other materials as prepared by the manufacturers thereof for sale.

(o) "Person" means an individual, partnership, corporation, or association.

(p) "Territory" includes the District of Columbia and any Territory or possession of the United States, but not the Canal Zone.

(q) The term "pesticide chemical" means any substance which, alone, in chemical combination or in formulation with one or more

other substances, is an "economic poison" within the meaning of the Federal Insecticide, Fungicide, and Rodenticide Act as now in force or as hereafter amended, and which is used in the production, storage, or transportation of raw agricultural commodities.

(r) *The term "raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing.*

§ 42. Determination of misbranding

If an article is alleged to be misbranded because the labeling is misleading, there shall be taken into account, among other things, in determining whether the labeling is misleading not only representations made or suggested by statement, word, design, device, or any combination thereof, but also the extent to which the labeling fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling relates under the conditions of use prescribed in the labeling thereof or under such conditions of use as are customary or usual.

§ 43. Representation as antiseptic

The representation of a drug, in its labeling, as an antiseptic shall constitute a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or for such other use as involves prolonged contact with the body.

§ 44. Short title

This chapter may be cited as the "Federal Food, Drug, and Cosmetic Act".

SUBCHAPTER II—FOOD

§ 51. Definitions and standards for food; procedure governing establishment; objections; hearings; applicability of other provisions

(a) *Whenever in the judgment of the Secretary such action will promote honesty and fair dealing in the interest of consumers, the Secretary shall promulgate regulations fixing and establishing for any food, under its common or usual name in so far as practicable, a reasonable definition and standard of identity, a reasonable standard of quality, and/or reasonable standards of fill of container.*

The Secretary may not establish a definition and standard of identity or standard of quality for fresh or dried fruits, fresh or dried vegetables, or butter, but may establish definitions and standards of

identity, relating only to maturity and to the effects of freezing, for avocados, cantaloupes, citrus fruits, and melons.

In prescribing any standard of fill of container, the Secretary shall give consideration to the natural shrinkage in storage and in transit of fresh natural food and to need for the necessary packing and protective material.

In prescribing any standard of quality for any canned fruit or canned vegetable, the Secretary shall give consideration to and make due allowance for the differing characteristics of the several varieties of such fruit or vegetable.

In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted, the Secretary shall, for the purpose of promoting honesty and fair dealing in the interest of consumers, designate the optional ingredients which shall be named on the label.

(b) (1) Any action under subsection (a) of this section for the issuance, amendment, or repeal of any regulation shall be begun by a proposal made (A) by the Secretary of his own initiative, or (B) by petition of any interested person, showing reasonable grounds therefor, filed with the Secretary. The Secretary shall publish the proposal and shall afford all interested persons an opportunity to present their views thereon, orally or in writing. As soon as practicable thereafter, the Secretary shall by order act upon such proposal and shall make such order public. Except as provided in paragraph (2) of this subsection the order shall become effective at such time as may be specified therein, but not prior to the day following the last day on which objections may be filed under such paragraph.

(2) At any time prior to the thirtieth day after the date on which an order entered under paragraph (1) of this subsection is made public, any person who will be adversely affected by such order if placed in effect may file objections thereto with the Secretary, specifying with particularity the provisions of the order deemed objectionable, stating the grounds therefor, and requesting a public hearing upon such objections. Until final action upon such objections is taken by the Secretary under paragraph (3) of this subsection, the filing of such objections shall operate to stay the effectiveness of those provisions of the order to which the objections are made. As soon as practicable after the time for filing objections has expired the Secretary shall publish a notice in the Federal Register specifying those parts of the order which have been stayed by the filing of objections and, if no objections have been filed, stating that fact.

(3) *As soon as practicable after such request for a public hearing, the Secretary, after due notice, shall hold such a public hearing for the purpose of receiving evidence relevant and material to the issues raised by such objections. At the hearing, any interested person may be heard in person or by representative. As soon as practicable after completion of the hearing, the Secretary shall by order act upon such objections and make such order public. Such order shall be based only on substantial evidence of record at such hearing and shall set forth, as part of the order, detailed findings of fact on which the order is based. The Secretary shall specify in the order the date on which it shall take effect, except that it shall not be made to take effect prior to the ninetieth day after its publication unless the Secretary finds that emergency conditions exist necessitating an earlier effective date, in which event the Secretary shall specify in the order his findings as to such conditions. Such order shall be subject to the provisions of section 131 (f) and (g) of this title.*

§ 52. Adulterated food

A food is deemed to be adulterated—

(a) Poisonous, Insanitary, Etc., Ingredients.—(1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health unless the substance is not an added substance and its quantity in such food does not ordinarily render it injurious to health; or (2) if it bears or contains any added poisonous or added deleterious substance, except a pesticide chemical in or on a raw agricultural commodity, which is unsafe within the meaning of section 55 of this title, or if it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of section 56 (a) of this title; or (3) if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for food; or (4) if it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth or whereby it may have been rendered injurious to health; or (5) if it is, in whole or in part, the product of a diseased animal or of an animal which has died otherwise than by slaughter or (6) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

(b) Absence, Substitution, or Addition of Constituents.—(1) If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or (2) if any substance has been substituted wholly or in part therefor; or (3) if damage or inferiority has been

concealed in any manner; or (4) if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

(c) *Uncertified Coal-Tar Coloring*.—If it bears or contains a coal-tar color other than one from a batch that has been certified in accordance with regulations as provided by section 55 of this title. This paragraph does not apply to citrus fruit bearing or containing a coal-tar color where application for listing of such color has been made under this subchapter but not acted on by the Secretary, if such color was commonly used prior to June 25, 1938, for the purpose of coloring citrus fruit.

(d) *Confectionery Containing Alcohol or Nonnutritive Substance*.—If it is confectionery, and it bears or contains any alcohol or nonnutritive article or substance except harmless coloring, harmless flavoring, harmless resinous glaze not in excess of four-tenths of 1 per centum, natural gum, and pectin. This paragraph does not apply to any confectionery by reason of its containing less than one-half of 1 per centum by volume of alcohol derived solely from the use of flavoring extracts, or to any chewing gum by reason of its containing harmless nonnutritive masticatory substances.

(e) *Insanitary Ingredients in Oleomargarine or Butter*.—If it is oleomargarine or margarine or butter and any of the raw material used therein consisted in whole or in part of any filthy, putrid, or decomposed substance, or such oleomargarine or margarine or butter is otherwise unfit for food.

§ 53. **Misbranded food**

A food is deemed to be misbranded—

(a) *False or Misleading Labeling*.—If its labeling is false or misleading in any particular.

(b) *Offer for Sale Under Another Name*.—If it is offered for sale under the name of another food.

(c) *Imitation*.—If it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated.

(d) *Misleading Container*.—If its container is so made, formed, or filled as to be misleading.

(e) *Package Form*.—If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity

of the contents in terms of weight, measure, or numerical count. Under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary.

(f) *Prominence of Information on Label.*—If any word, statement, or other information required by or under authority of this chapter to appear on the label or labels is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(g) *Representation as to Identity.*—If it purports to be or is represented as a food for which a definition and standard of identity has been prescribed by regulations as provided by section 51 of this title, unless (1) it conforms to such definition and standard, and (2) its label bears the name of the food specified in the definition and standard, and, insofar as required by such regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such food.

(h) *Representation as to Quality and Fill of Container.*—If it purports to be or is represented as—

(1) a food for which a standard of quality has been prescribed by regulations as provided by section 51 of this title, and its quality falls below such standard, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard; or

(2) a food for which a standard or standards of fill of container has been prescribed by regulations as provided by section 51 of this title, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard.

(i) *Label Where No Representation as to Standard of Identity.*—If it is not subject to the provisions of paragraph (g) of this section unless its label bears (1) the common or usual name of the food, if any there be, and (2) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavoring, and colorings without naming each. The Secretary shall promulgate regulations establishing exemptions to the extent that compliance with the requirements of clause (2) of

this paragraph is impracticable, or results in deception or unfair competition.

(j) *Representation for Special Dietary Use.*—If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the Secretary determines to be and by regulations prescribes as necessary in order fully to inform purchasers as to its value for such uses.

(k) *Artificial Flavoring, Etc.; Exception of Articles From (g), (i), and (k).*—If it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact. The Secretary shall promulgate regulations establishing exemptions to the extent that compliance with the requirements of this paragraph is impracticable. The provisions of this paragraph and paragraphs (g) and (i) of this section with respect to artificial coloring shall not apply in the case of butter, cheese, or ice cream.

§ 54. Exemptions

The Secretary shall promulgate regulations exempting from any labeling requirement of this chapter (1) small open containers of fresh fruits and fresh vegetables and (2) food which is, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such food is not adulterated or misbranded under the provisions of this chapter upon removal from such processing, labeling, or repacking establishment.

§ 55. Tolerances for poisonous ingredients; certification of coal-tar colors for foods

(a) Any poisonous or deleterious substance added to any food, except where such substance is required in the production thereof or cannot be avoided by good manufacturing practice, shall be deemed to be unsafe for purposes of the application of clause (2) of section 52 (a) of this title. When such substance is so required or cannot be so avoided, the Secretary shall promulgate regulations limiting the quantity therein or thereon to the extent the Secretary finds necessary for the protection of public health, and any quantity exceeding the limits so fixed shall also be deemed to be unsafe for purposes of the application of clause (2) of section 52 (a) of this title. While such a regulation is in effect limiting the quantity of any such substance in the case of any food, such food shall not, by reason of bearing or containing any added amount of such substance, be considered

to be adulterated within the meaning of clause (1) of section 52 (a) of this title. In determining the quantity of such added substance to be tolerated in or on different articles of food, the Secretary shall take into account the extent to which the use of such substance is required or cannot be avoided in the production of each such article and the other ways in which the consumer may be affected by the same or other poisonous or deleterious substances.

(b) The Secretary shall promulgate regulations providing for the listing of coal-tar colors which are harmless and suitable for use in food and for the certification of batches of such colors, with or without harmless diluents.

§ 56. Tolerances for pesticide chemicals in or on raw agricultural products

(a) Pesticide Chemicals Deemed Unsafe.—Any poisonous or deleterious pesticide chemical, or any pesticide chemical which is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety of pesticide chemicals, as safe for use, added to a raw agricultural commodity, shall be deemed unsafe for the purposes of the application of clause (2) of section 52 (a) of this title unless—

(1) a tolerance for such pesticide chemical in or on the raw agricultural commodity has been prescribed by the Secretary of Health, Education, and Welfare under this section and the quantity of such pesticide chemical in or on the raw agricultural commodity is within the limits of the tolerance so prescribed; or

(2) with respect to use in or on such raw agricultural commodity, the pesticide chemical has been exempted from the requirement of a tolerance by the Secretary under this section.

While a tolerance or exemption from tolerance is in effect for a pesticide chemical with respect to any raw agricultural commodity, such raw agricultural commodity shall not, by reason of bearing or containing any added amount of such pesticide chemical, be considered to be adulterated within the meaning of clause (1) of section 52 (a) of this title.

(b) Regulations of Secretary Establishing Tolerances.—The Secretary shall promulgate regulations establishing tolerances with respect to the use in or on raw agricultural commodities of poisonous or deleterious pesticide chemicals and of pesticide chemicals which are not generally recognized, among experts qualified by scientific training and experience to evaluate the safety of pesticide chemicals, as safe for use, to the extent necessary to protect the public health.

In establishing any such regulation, the Secretary shall give appropriate consideration, among other relevant factors, (1) to the necessity for the production of an adequate, wholesome, and economical food supply; (2) to the other ways in which the consumer may be affected by the same pesticide chemical or by other related substances that are poisonous or deleterious; and (3) to the opinion of the Secretary of Agriculture as submitted with a certification of usefulness under subsection (l) of this section. Such regulations shall be promulgated in the manner prescribed in subsection (d) or (e) of this section. In carrying out the provisions of this section relating to the establishment of tolerances, the Secretary may establish the tolerance applicable with respect to the use of any pesticide chemical in or on any raw agricultural commodity at zero level if the scientific data before the Secretary does not justify the establishment of a greater tolerance.

(c) Regulations of Secretary Regarding Exemptions.—The Secretary shall promulgate regulations exempting any pesticide chemical from the necessity of a tolerance with respect to use in or on any or all raw agricultural commodities when such a tolerance is not necessary to protect the public health. Such regulations shall be promulgated in the manner prescribed in subsection (d) or (e) of this section.

(d) Petitions for Regulations; Contents; Procedure.—(1) Any person who has registered, or who has submitted an application for the registration of, an economic poison under the Federal Insecticide, Fungicide, and Rodenticide Act may file with the Secretary of Health, Education, and Welfare, a petition proposing the issuance of a regulation establishing a tolerance for a pesticide chemical which constitutes, or is an ingredient of, such economic poison, or exempting the pesticide chemical from the requirement of a tolerance. The petition shall contain data showing—

(A) the name, chemical identity, and composition of the pesticide chemical;

(B) the amount, frequency, and time of application of the pesticide chemical;

(C) full reports of investigations made with respect to the safety of the pesticide chemical;

(D) the results of tests on the amount of residue remaining, including a description of the analytical methods used;

(E) practicable methods for removing residue which exceeds any proposed tolerance;

(F) *proposed tolerances for the pesticide chemical if tolerances are proposed; and*

(G) *reasonable grounds in support of the petition. Samples of the pesticide chemical shall be furnished to the Secretary upon request. Notice of the filing of such petition shall be published in general terms by the Secretary within thirty days after filing. Such notice shall include the analytical methods available for the determination of the residue of the pesticide chemical for which a tolerance or exemption is proposed.*

(2) *Within ninety days after a certification of usefulness by the Secretary of Agriculture under subsection (l) of this section with respect to the pesticide chemical named in the petition, the Secretary of Health, Education, and Welfare shall, after giving due consideration to the data submitted in the petition or otherwise before him, by order make public a regulation—*

(A) *establishing a tolerance for the pesticide chemical named in the petition for the purposes for which it is so certified as useful, or*

(B) *exempting the pesticide chemical from the necessity of a tolerance for such purposes,*
unless within such ninety-day period the person filing the petition requests that the petition be referred to an advisory committee or the Secretary within such period otherwise deems such referral necessary, in either of which events the provisions of paragraph (3) of this subsection shall apply in lieu hereof.

(3) *In the event that the person filing the petition requests, within ninety days after a certification of usefulness by the Secretary of Agriculture under subsection (l) of this section with respect to the pesticide chemical named in the petition, that the petition be referred to an advisory committee, or in the event the Secretary of Health, Education, and Welfare within such period otherwise deems such referral necessary, the Secretary of Health, Education, and Welfare shall forthwith submit the petition and other data before him to an advisory committee to be appointed in accordance with subsection (g) of this section. As soon as practicable after such referral, but not later than sixty days thereafter, unless extended as hereinafter provided, the committee shall, after independent study of the data submitted to it by the Secretary and other data before it, certify to the Secretary a report and recommendations on the proposal in the petition to the Secretary, together with all underlying data and a*

statement of the reasons or basis for the recommendations. The sixty-day period provided for herein may be extended by the advisory committee for an additional thirty days if the advisory committee deems this necessary. Within thirty days after such certification, the Secretary shall, after giving due consideration to all data then before him, including such report, recommendations, underlying data, and statement, by order make public a regulation—

(A) establishing a tolerance for the pesticide chemical named in the petition for the purposes for which it is so certified as useful; or

(B) exempting the pesticide chemical from the necessity of a tolerance for such purposes.

(4) The regulations published under paragraph (2) or (3) of this subsection will be effective upon publication.

(5) Within thirty days after publication, any person adversely affected by a regulation published pursuant to paragraph (2) or (3) of this subsection, or pursuant to subsection (c) of this section, may file objections thereto with the Secretary, specifying with particularity the provisions of the regulation deemed objectionable, stating reasonable grounds therefor, and requesting a public hearing upon such objections. A copy of the objections filed by a person other than the petitioner shall be served on the petitioner, if the regulation was issued pursuant to a petition. The petitioner shall have two weeks to make a written reply to the objections. The Secretary shall thereupon, after due notice, hold such public hearing for the purpose of receiving evidence relevant and material to the issues raised by such objections. Any report, recommendations, underlying data, and reasons certified to the Secretary by an advisory committee shall be made a part of the record of the hearing, if relevant and material, subject to the provisions of section 1006 (c) of Title 5. The National Academy of Sciences shall designate a member of the advisory committee to appear and testify at any such hearing with respect to the report and recommendations of such committee upon request of the Secretary, the petitioner, or the officer conducting the hearing. Any other member of the advisory committee may appear and testify at such hearing. As soon as practicable after completion of the hearing, the Secretary shall act upon such objections and by order make public a regulation. Such regulation shall be based only on substantial evidence of record at such hearing, including any report, recommendations, underlying data, and reasons certified to the Secretary by an advisory committee, and

shall set forth detailed findings of fact upon which the regulation is based. No such order shall take effect prior to the ninetieth day after its publication, unless the Secretary finds that emergency conditions exist necessitating an earlier effective date, in which event the Secretary shall specify in the order his findings as to such conditions.

(e) *Proposal of Regulations by Secretary: Procedure.*—The Secretary may at any time, upon his own initiative or upon the request of any interested person, propose the issuance of a regulation establishing a tolerance for a pesticide chemical or exempting it from the necessity of a tolerance. Thirty days after publication of such a proposal, the Secretary may by order publish a regulation based upon the proposal which shall become effective upon publication unless within such thirty-day period a person who has registered, or who has submitted an application for the registration of, an economic poison under the Federal Insecticide, Fungicide, and Rodenticide Act containing the pesticide chemical named in the proposal, requests that the proposal be referred to an advisory committee. In the event of such a request, the Secretary shall forthwith submit the proposal and other relevant data before him to an advisory committee to be appointed in accordance with subsection (g) of this section. As soon as practicable after such referral, but not later than sixty days thereafter, unless extended as hereinafter provided, the committee shall, after independent study of the data submitted to it by the Secretary and other data before it, certify to the Secretary a report and recommendations on the proposal together with all underlying data and a statement of the reasons or basis for the recommendations. The sixty-day period provided for herein may be extended by the advisory committee for an additional thirty days if the advisory committee deems this necessary. Within thirty days after such certification, the Secretary may, after giving due consideration to all data before him, including such report, recommendations, underlying data and statement, by order publish a regulation establishing a tolerance for the pesticide chemical named in the proposal or exempting it from the necessity of a tolerance which shall become effective upon publication. Regulations issued under this subsection shall upon publication be subject to paragraph (5) of subsection (d) of this section.

(f) *Confidential Character of Data Until Publication.*—All data submitted to the Secretary or to an advisory committee in support of a petition under this section shall be considered confidential by the Secretary and by such advisory committee until publication of a

regulation under paragraph (2) or (3) of subsection (d) of this section. Until such publication, such data shall not be revealed to any person other than those authorized by the Secretary or by an advisory committee in the carrying out of their official duties under this section.

(g) *Advisory Committees; Appointment and Functions; Compensation; Clerical Assistance.*—Whenever the referral of a petition or proposal to an advisory committee is requested under this section, or the Secretary otherwise deems such referral necessary; the Secretary shall forthwith appoint a committee of competent experts to review the petition or proposal and to make a report and recommendations thereon. Each such advisory committee shall be composed of experts, qualified in the subject matter of the petition and of adequately diversified professional background selected by the National Academy of Sciences and shall include one or more representatives from land-grant colleges. The size of the committee shall be determined by the Secretary. Members of an advisory committee shall receive as compensation for their services a reasonable per diem, which the Secretary shall by rules and regulations prescribe, for time actually spent in the work of the committee, and shall in addition be reimbursed for their necessary traveling and subsistence expenses while so serving away from their places of residence. The members shall not be subject to any other provisions of law regarding the appointment and compensation of employees of the United States. The Secretary shall furnish the committee with adequate clerical and other assistance, and shall by rules and regulations prescribe the procedure to be followed by the committee.

(h) *Right of Consultation With Committee.*—A person who has filed a petition or who has requested the referral of a proposal to an advisory committee in accordance with the provisions of this section, as well as representatives of the Department of Health, Education, and Welfare, shall have the right to consult with any advisory committee provided for in subsection (g) of this section in connection with the petition or proposal.

(i) *Judicial Review of Orders; Procedure, Etc.*—(1) In a case of actual controversy as to the validity of any order under subsection (d) (5), (e), or (l) of this section any person who will be adversely affected by such order may obtain judicial review by filing in the United States Court of Appeals for the circuit wherein such person resides or has his principal place of business, or in the United States Court of Appeals for the District of Columbia Circuit, within sixty

days after the entry of such order, a petition praying that the order be set aside in whole or in part.

(2) In the case of a petition with respect to an order under subsection (d) (5) or (e) of this section, a copy of the petition shall be forthwith served upon the Secretary, or upon any officer designated by him for that purpose, and thereupon the Secretary shall certify and file in the court a transcript of the proceedings and the record on which he based his order. Upon such filing, the court shall have exclusive jurisdiction to affirm or set aside the order complained of in whole or in part. The findings of the Secretary with respect to questions of fact shall be sustained if supported by substantial evidence when considered on the record as a whole, including any report and recommendation of an advisory committee.

(3) In the case of a petition with respect to an order under subsection (l) of this section, a copy of the petition shall be forthwith served upon the Secretary of Agriculture, or upon any officer designated by him for that purpose, and thereupon the Secretary shall certify and file in the court a transcript of the proceedings and the record on which he based his order. Upon such filing, the court shall have exclusive jurisdiction to affirm or set aside the order complained of in whole or in part. The findings of the Secretary with respect to questions of fact shall be sustained if supported by substantial evidence when considered on the record as a whole.

(4) If application is made to the court for leave to adduce additional evidence, the court may order such additional evidence to be taken before the Secretary of Health, Education, and Welfare or the Secretary of Agriculture, as the case may be, and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper, if such evidence is material and there were reasonable grounds for failure to adduce such evidence in the proceedings below. The Secretary of Health, Education, and Welfare or the Secretary of Agriculture, as the case may be, may modify his findings as to the facts and order by reason of the additional evidence so taken, and shall file with the court such modified findings and order.

(5) The judgment of the court affirming or setting aside, in whole or in part, any order under this section shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of Title 28. The commencement of proceedings under this section shall not, unless specifically ordered by the court to the contrary, operate as a stay of an order. The courts

shall advance on the docket and expedite the disposition of all causes filed therein pursuant to this section.

(j) *Temporary Tolerances.*—*The Secretary may, upon the request of any person who has obtained an experimental permit for a pesticide chemical under the Federal Insecticide, Fungicide, and Rodenticide Act or upon his own initiative, establish a temporary tolerance for the pesticide chemical for the uses covered by the permit whenever in his judgment such action is deemed necessary to protect the public health, or may temporarily exempt such pesticide chemical from a tolerance. In establishing such a tolerance, the Secretary shall give due regard to the necessity for experimental work in developing an adequate, wholesome, and economical food supply and to the limited hazard to the public health involved in such work when conducted in accordance with applicable regulations under the Federal Insecticide, Fungicide, and Rodenticide Act.*

(k) *Ratification of Regulations Under Prior Law.*—*Regulations affecting pesticide chemicals in or on raw agricultural commodities which were promulgated under the authority of section 406 (a) of the Federal Food, Drug, and Cosmetic Act (of 1938) upon the basis of public hearings instituted before January 1, 1953, in accordance with section 701 (e) of such Act, shall be deemed to be regulations under this section and shall be subject to amendment or repeal as provided in subsection (m) of this section.*

(l) *Certification of Usefulness by Secretary of Agriculture; Procedure; Hearings, Etc.*—*The Secretary of Agriculture, upon request of any person who has registered, or who has submitted an application for the registration of, an economic poison under the Federal Insecticide, Fungicide, and Rodenticide Act, and whose request is accompanied by a copy of a petition filed by such person under subsection (d) (1) of this section with respect to a pesticide chemical which constitutes, or is an ingredient of, such economic poison, shall, within thirty days or within sixty days if upon notice prior to the termination of such thirty days the Secretary deems it necessary to postpone action for such period, on the basis of data before him, either—*

(1) *certify to the Secretary of Health, Education, and Welfare that such pesticide chemical is useful for the purpose for which a tolerance or exemption is sought; or*

(2) *notify the person requesting the certification of his proposal to certify that the pesticide chemical does not appear to be useful for the purpose for which a tolerance or exemption is*

sought, or appears to be useful for only some of the purposes for which a tolerance or exemption is sought.

In the event that the Secretary of Agriculture takes the action described in clause (2) of the preceding sentence, the person requesting the certification, within one week after receiving the proposed certification, may either (A) request the Secretary of Agriculture to certify to the Secretary of Health, Education, and Welfare on the basis of the proposed certification; (B) request a hearing on the proposed certification or the parts thereof objected to; or (C) request both such certification and such hearing. If no such action is taken, the Secretary may by order make the certification as proposed. In the event that the action described in clause (A) or (C) is taken, the Secretary shall by order make the certification as proposed with respect to such parts thereof as are requested. In the event a hearing is requested, the Secretary of Agriculture shall provide opportunity for a prompt hearing. The certification of the Secretary of Agriculture as the result of such hearing shall be made by order and shall be based only on substantial evidence of record at the hearing and shall set forth detailed findings of fact. In no event shall the time elapsing between the making of a request for a certification under this subsection and final certification by the Secretary of Agriculture exceed one hundred and sixty days. The Secretary shall submit to the Secretary of Health, Education, and Welfare with any certification of usefulness under this subsection an opinion, based on the data before him, whether the tolerance or exemption proposed by the petitioner reasonably reflects the amount of residue likely to result when the pesticide chemical is used in the manner proposed for the purpose for which the certification is made. The Secretary of Agriculture, after due notice and opportunity for public hearing, is authorized to promulgate rules and regulations for carrying out the provisions of this subsection.

(m) Regulations Covering Procedure for Amending or Repealing Regulations.—The Secretary of Health, Education, and Welfare shall prescribe by regulations the procedure by which regulations under this section may be amended or repealed, and such procedure shall conform to the procedure provided in this section for the promulgation of regulations establishing tolerances, including the appointment of advisory committees and the procedure for referring petitions to such committees.

(n) Applicability of Section 152 (c).—The provisions of section 152 (c) of this title with respect to the furnishing of guaranties shall

be applicable to raw agricultural commodities covered by this section.

(o) Payment of Fees; Waivers and Refunds.—The Secretary of Health, Education, and Welfare shall by regulation require the payment of such fees as will in the aggregate, in the judgment of the Secretary, be sufficient over a reasonable term to provide, equip, and maintain an adequate service for the performance of the Secretary's functions under this section. Under such regulations, the performance of the Secretary's services or other functions pursuant to this section, including any one or more of the following, may be conditioned upon the payment of such fees: (1) The acceptance of filing of a petition submitted under subsection (d) of this section; (2) the promulgation of a regulation establishing a tolerance, or an exemption from the necessity of a tolerance, under this section, or the amendment or repeal of such a regulation; (3) the referral of a petition or proposal under this section to an advisory committee; (4) the acceptance for filing of objections under subsection (d) (5) of this section; or (5) the certification and filing in court of a transcript of the proceedings and the record under subsection (i) (2) of this section. Such regulations may further provide for waiver or refund of fees in whole or in part when in the judgment of the Secretary such waiver or refund is equitable and not contrary to the purposes of this subsection.

§ 57. Emergency permit control

(a) Whenever the Secretary finds after investigation that the distribution in interstate commerce of any class of food may, by reason of contamination with micro-organisms during the manufacture, processing, or packing thereof in any locality, be injurious to health, and that the injurious nature cannot be adequately determined after the articles have entered interstate commerce, the Secretary then, and in such case only, shall promulgate regulations providing for the issuance, to manufacturers, processors, or packers of such class of food in such locality, of permits to which shall be attached such conditions governing the manufacture, processing, or packing of such class of food, for the period of time necessary to protect the public health. After the effective date of such regulations, and during such period, no person shall introduce or deliver for introduction into interstate commerce any such food unless such manufacturer, processor, or packer holds a permit issued by the Secretary as provided by such regulations.

(b) The Secretary may suspended immediately upon notice any permit issued under authority of this section if it is found that any of the conditions of the permit have been violated. The holder of a per-

mit so suspended may at any time apply for the reinstatement thereof and the Secretary shall, immediately after prompt hearing and an inspection of the establishment, reinstate such permit if it is found that adequate measures have been taken to comply with and maintain the conditions of the permit as originally issued or as amended.

(c) Any officer or employee designated by the Secretary shall have access to any factory or establishment, the operator of which holds a permit from the Secretary, for the purpose of ascertaining whether the conditions of the permit are being complied with. If access for such inspection is denied, the Secretary may suspend the permit until such access is freely given by the operator.

§ 58. Seafood; examination on request of packer; fees

(a) Upon application of any packer of seafood for shipment or sale within the jurisdiction of this chapter, the Secretary may designate inspectors to examine and inspect such food and the production, packing, and labeling thereof. If on such examination and inspection compliance is found with the provisions of this chapter and regulations promulgated thereunder, the applicant shall be authorized or required to mark the food as provided by regulation to show such compliance. The Secretary may promulgate regulations governing the sanitary and other conditions under which the service herein provided shall be granted and maintained, and for otherwise carrying out the purposes of this section.

(b) Services under this section shall be rendered only upon payment by the applicant of fees fixed by regulation in amounts necessary to provide, equip, and maintain an adequate and efficient inspection service. Receipts from such fees shall be covered into the Treasury and shall be available to the Secretary for expenditures incurred in carrying out the purposes of this section, including salaries of additional inspectors when necessary to supplement the number for whose salaries Congress has appropriated.

§ 59. Colored oleomargarine; Congressional finding as to sale or serving

The Congress finds and declares that the sale, or the serving in public eating places, of colored oleomargarine or colored margarine without clear identification as such or which is otherwise adulterated or misbranded within the meaning of this chapter depresses the market in interstate commerce for butter and for oleomargarine or margarine clearly identified and neither adulterated nor misbranded, and constitutes a burden on interstate commerce in such articles. Such

burden exists, irrespective of whether such oleomargarine or margarine originates from an interstate source or from the State in which it is sold.

§ 60. Colored oleomargarine; sale in State where produced; packaging and labeling; service in restaurants

(a) Colored oleomargarine or colored margarine which is sold in the same State or Territory in which it is produced shall be subject in the same manner and to the same extent to the provisions of this chapter as if it had been introduced in interstate commerce.

(b) No person shall sell, or offer for sale, colored oleomargarine or colored margarine unless—

(1) such oleomargarine or margarine is packaged;

(2) the net weight of the contents of any package sold in a retail establishment is one pound or less;

(3) there appears on the label of the package (A) the word “oleomargarine” or “margarine” in type or lettering at least as large as any other type or lettering on such label and (B) a full and accurate statement of all the ingredients contained in such oleomargarine or margarine; and

(4) each part of the contents of the package is contained in a wrapper which bears the word “oleomargarine” or “margarine” in type or lettering not smaller than 20-point type.

The requirements of this subsection shall be in addition to and not in lieu of any of the other requirements of this chapter.

(c) No person shall possess in a form ready for serving colored oleomargarine or colored margarine at a public eating place unless a notice that oleomargarine or margarine is served is displayed prominently and conspicuously in such place and in such manner as to render it likely to be read and understood by the ordinary individual being served in such eating place or is printed or is otherwise set forth on the menu in type or lettering not smaller than that normally used to designate the serving of other food items. No person shall serve colored oleomargarine or colored margarine at a public eating place, whether or not any charge is made therefor, unless (1) each separate serving bears or is accompanied by labeling identifying it as oleomargarine or margarine, or (2) each separate serving thereof is triangular in shape.

(d) If colored oleomargarine or colored margarine complies with the requirements of subsection (b) of this section when served with meals at a public eating place, it shall, at the time of such service, be

exempt from the requirements of section 53 of this title, except subsections (a) and (f) of such section.

(e) *For the purposes of this section, colored oleomargarine or colored margarine is oleomargarine or margarine having a tint or shade containing more than one and six-tenths degrees of yellow, or of yellow and red collectively, but with an excess of yellow over red, measured in terms of the Lovibond tintometer scale or its equivalent, and the term "oleomargarine" or "margarine" includes—*

(1) *all substances, mixtures, and compounds known as oleomargarine or margarine;*

(2) *all substances, mixtures, and compounds which have a consistence similar to that of butter and which contain any edible oils or fats other than milk fat if made in imitation or semblance of butter.*

§ 61. Oleomargarine, butterine, imitation butter or cheese; application of State laws

(a) *Nothing in this chapter or sections 45 and 55 of Title 15 shall be construed as authorizing the possession, sale, or serving of colored oleomargarine, or colored margarine in any State or Territory in contravention of the laws of such State or Territory.*

(b) *All articles known as oleomargarine, butterine, imitation, process, renovated, or adulterated butter, or imitation cheese, or any substance in the semblance of butter or cheese not the usual product of the dairy and not made exclusively of pure and unadulterated milk or cream, transported into any State or Territory or the District of Columbia, and remaining therein for use, consumption, sale, or storage therein, shall, upon the arrival within the limits therein be subject to the operation and effect of the laws thereof enacted in the exercise of its police powers to the same extent and in the same manner as though such articles or substances had been produced therein, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise.*

§ 62. Exemption of meats and meat food products

Meats and meat food products are exempt from the provisions of this chapter to the extent of the application or the extension thereto of sections 491–510 of this title.

SUBCHAPTER III—DRUGS AND DEVICES

§ 71. Adulterated drugs and devices

A drug or device is deemed to be adulterated—

(a) *Poisonous, Insanitary, Etc., Ingredients.*—

(1) *If it consists in whole or in part of any filthy, putrid, or decomposed substance; or*

(2) *If it has been prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth or whereby it may have been rendered injurious to health; or*

(3) *If it is a drug and its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or*

(4) *If it is a drug and bears or contains, for purposes of coloring only, a coal-tar color other than one from a batch that has been certified in accordance with regulations as provided by section 74 of this title.*

(b) *Strength, Quality, or Purity Differing From Official Compendium.*—*If it purports to be or is represented as a drug the name of which is recognized in an official compendium, and its strength differs from, or its quality or purity falls below, the standard set forth in such compendium, determined in accordance with the tests or methods of assay set forth in such compendium. Whenever tests or methods of assay have not been prescribed in such compendium, or, if prescribed, are, in the judgment of the Secretary, insufficient for the making of such determination, the Secretary shall notify the appropriate body charged with the revision of such compendium, and if such body fails within a reasonable time to prescribe tests or methods of assay which, in the judgment of the Secretary, are sufficient, for purposes of this paragraph, he shall promulgate regulations prescribing appropriate tests or methods of assay in accordance with which such determination as to strength, quality, or purity shall be made. No drug defined in an official compendium shall be deemed to be adulterated under this paragraph because it differs from the standard of strength, quality, or purity therefor set forth in such compendium, if its difference in strength, quality, or purity from such standard is plainly stated on its label. A drug recognized in both the United States Pharmacopeia and the Homœopathic Pharmacopeia of the United States shall be subject to the requirements of the United States Pharmacopeia unless it is labeled and offered for sale as a homœopathic drug, in which case it shall be subject to the provisions of the Homœopathic Pharmacopeia of the United States.*

(c) *Misrepresentation of Strength, Etc., Where Drug Is Unrecognized in Compendium.*—*If it is not subject to the provisions of para-*

graph (b) of this section and its strength differs from, or its purity or quality falls below, that which it purports or is represented to possess.

(d) *Mixture With or Substitution of Another Substance.*—If it is a drug and any substance has been (1) mixed or packed therewith so as to reduce its quality or strength or (2) substituted wholly or in part therefor.

§ 72. *Misbranded drugs and devices*

A drug or device is deemed to be misbranded—

(a) *False or Misleading Labeling.*—If its labeling is false or misleading in any particular.

(b) *Package Form; Contents of Label.*—If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count. Under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary.

(c) *Prominence of Information on Label.*—If any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(d) *Habit-Forming Substance.*—If it is for use by man and contains any quantity of the narcotic or hypnotic substance alpha eucaine, barbituric acid, betaencaine, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, marihuana, morphine, opium, paraldehyde, peyote, or sulphonmethane; or any chemical derivative of such substance, which derivative the Secretary, after investigation, finds to be, and by regulations designates as, habit forming; unless its label bears the name and quantity or proportion of such substance or derivative and in juxtaposition therewith the statement "Warning—May be habit forming."

(e) *Designation of Drug by Name Not in Compendium.*—If it is a drug not designated solely by a name recognized in an official compendium unless its label bears (1) the common or usual name of the drug, if such there be; and (2), in case it is fabricated from two or more ingredients, the common or usual name of each active ingredient, including the quantity, kind, and proportion of any

alcohol, and also including, whether active or not, the name and quantity or proportion of any bromides, ether, chloroform, acetanilid, acetphenetidin, amidopyrine, antipyrine, atropine, hyoscine, hyoscyamine, arsenic, digitalis, digitalis glucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or any derivative or preparation of any such substances, contained therein. The Secretary shall promulgate regulations establishing exemptions to the extent that compliance with the requirements of clause (2) of this paragraph is impracticable.

(f) Directions for Use and Warnings on Label.—Unless its labeling bears (1) adequate directions for use; and (2) adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in such manner and form as are necessary for the protection of users. Where any requirement of clause (1) of this paragraph, as applied to any drug or device, is not necessary for the protection of the public health, the Secretary shall promulgate regulations exempting such drug or device from such requirement.

(g) Representation as Recognized Drug; Packing and Labeling.—If it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed therein. The Secretary may consent to a modification of the method of packing. A drug recognized in both the United States Pharmacopœia and the Homœopathic Pharmacopœia of the United States shall be subject to the requirements of the United States Pharmacopœia with respect to packaging and labeling unless it is labeled and offered for sale as a homœopathic drug, in which case it shall be subject to the provisions of the Homœopathic Pharmacopœia of the United States.

(h) Deteriorative Drugs; Packing and Labeling.—If it has been found by the Secretary to be a drug liable to deterioration, unless it is packaged in such form and manner, and its label bears a statement of such precautions, as the Secretary by regulations requires as necessary for the protection of the public health. The Secretary shall not establish such a regulation for any drug recognized in an official compendium until the Secretary has informed the body charged with the revision of such compendium of the need for such packaging or labeling requirements and such body has failed within a reasonable time to prescribe such requirements.

(i) Drug; Misleading Container; Imitation; Offer for Sale Under Another Name.—(1) If it is a drug and its container is so made,

formed, or filled as to be misleading; or (2) if it is an imitation of another drug; or (3) if it is offered for sale under the name of another drug.

(j) *Health-Endangering When Used as Prescribed.*—If it is dangerous to health when used in the dosage, or with the frequency or duration prescribed, recommended, or suggested in the labeling thereof.

(k) *Insulin Not Properly Certified.*—If it is, or purports to be, or is represented as a drug composed wholly or partly of insulin, unless (1) it is from a batch with respect to which a certificate or release has been issued pursuant to section 76 of this title, and (2) such certificate or release is in effect with respect to such drug.

(l) *Other Drugs not Properly Certified.*—If it is, or purports to be, or is represented as a drug composed wholly or partly of any kind of penicillin, streptomycin, chlortetracycline, chloramphenicol, or bacitracin, or any derivative thereof, unless (1) it is from a batch with respect to which a certificate or release has been issued pursuant to section 77 of this title, and (2) such certificate or release is in effect with respect to such drug. This subsection does not apply to any drug or class of drugs exempted by regulations promulgated under section 77 (c) or (d) of this title.

§ 73. Exemptions

(a) *The Secretary shall promulgate regulations exempting from any labeling or packing requirement of this chapter drugs and devices which are, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such drugs and devices are not adulterated or misbranded under the provisions of this chapter upon removal from such processing, labeling, or repacking establishment.*

(b) (1) *A drug intended for use by man which—*

(A) *is a habit-forming drug to which section 72 (d) of this title applies; or*

(B) *because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use, is not safe for use except under the supervision of a practitioner licensed by law to administer such drug; or*

(C) *is limited by an effective application under section 75 of this title to use under the professional supervision of a practitioner licensed by law to administer such drug,*

shall be dispensed only (i) upon a written prescription of a practitioner licensed by law to administer such drug, or (ii) upon an oral prescription of such practitioner which is reduced promptly to writing and filed by the pharmacist, or (iii) by refilling any such written or oral prescription if such refilling is authorized by the prescriber either in the original prescription or by oral order which is reduced promptly to writing and filed by the pharmacist. The act of dispensing a drug contrary to the provisions of this paragraph is deemed to be an act which results in the drug being misbranded while held for sale.

(2) A drug dispensed by filling or refilling a written or oral prescription of a practitioner licensed by law to administer such drug is exempt from the requirements of section 72 of this title, except paragraphs (a), (i) (2) and (3), (k) and (l) of such section, and the packaging requirements of paragraphs (g) and (h) of such section, if the drug bears a label containing the name and address of the dispenser, the serial number and date of the prescription or of its filling, the name of the prescriber, and, if stated in the prescription, the name of the patient, and the directions for use and cautionary statements, if any, contained in such prescription. This exemption does not apply to any drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail, or to a drug dispensed in violation of paragraph (1) of this subsection.

(3) The Secretary may by regulation remove drugs subject to sections 72 (d) and 75 of this title from the requirements of paragraph (1) of this subsection when such requirements are not necessary for the protection of the public health.

(4) A drug which is subject to paragraph (1) of this subsection is deemed to be misbranded if at any time prior to dispensing its label fails to bear the statement "Caution: Federal law prohibits dispensing without prescription". A drug to which paragraph (1) of this subsection does not apply is deemed to be misbranded if at any time prior to dispensing its label bears the caution statement quoted in the first sentence of this paragraph.

(5) Nothing in this subsection shall be construed to relieve any person from any requirement prescribed by or under authority of law with respect to drugs now included or which may hereafter be included within the classifications stated in section 3220 of the Internal Revenue Code, or to marihuana as defined in section 3238 (b) of the Internal Revenue Code.

§ 74. *Certification of coal-tar colors for drugs*

The Secretary shall promulgate regulations providing for the listing of coal-tar colors which are harmless and suitable for use in drugs for purposes of coloring only and for the certification of batches of such colors, with or without harmless diluents.

§ 75. *New drugs*

(a) Necessity of Effective Application.—No person shall introduce or deliver for introduction into interstate commerce, any new drug, unless an application filed pursuant to subsection (b) of this section is effective with respect to such drug.

(b) Filing Application.—Any person may file with the Secretary an application with respect to any drug subject to subsection (a) of this section, which application shall include (1) full reports of investigations which have been made to show whether such drug is safe for use; (2) a full list of the articles used as components of such drug; (3) a full statement of the composition of such drug; (4) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such drug; (5) samples of such drug and of the articles used as components thereof as the Secretary may require; and (6) specimens of the labeling proposed to be used for such drug.

(c) Effective Date of Application.—An application provided for in subsection (b) of this section shall become effective on the sixtieth day after the filing thereof unless prior to such day the Secretary by written notice to the applicant postpones the effective date of the application to such time, not more than one hundred and eighty days after the filing thereof, as he deems necessary to enable him to study and investigate the application.

(d) Grounds for Refusing Application To Become Effective.—Prior to the effective date of the application, the Secretary shall issue an order refusing to permit the application to become effective if he finds, after due notice to the applicant and giving him an opportunity for a hearing, that (1) the investigations reported pursuant to subsection (b) of this section do not include adequate tests by all methods reasonably applicable to show whether such drug is safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof; (2) the results of such tests show that such drug is unsafe for use under such conditions or do not show that such drug is safe for use under such conditions; (3) the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such drug are inadequate to preserve its identity,

strength, quality, and purity; or (4) upon the basis of the information submitted to him as part of the application, or other information before him with respect to such drug, he has insufficient information to determine whether such drug is safe for use under such conditions.

(e) *Suspension of Effectiveness of Application.*—The Secretary shall order the suspension of the effectiveness of an application with respect to any drug after due notice and opportunity for hearing to the applicant, if he finds (1) that clinical experience, tests by new methods, or tests by methods not deemed reasonably applicable when such application became effective show that such drug is unsafe for use under the conditions of use upon the basis of which the application became effective, or (2) that the application contains any untrue statement of a material fact. The order shall state the findings upon which it is based.

(f) *Revocation of Order Refusing Effectiveness.*—When the Secretary finds that the facts so require he shall revoke an order refusing to permit an application with respect to a drug to become effective.

(g) *Service of Orders.*—Orders of the Secretary issued under this section shall be served (1) in person by any officer or employee of the Department designated by the Secretary or (2) by registered mail addressed to the applicant or respondent at his last-known address in the records of the Secretary.

(h) *Appeal From Order.*—The applicant may appeal from an order of the Secretary refusing to permit the application to become effective, or suspending the effectiveness of the application by filing in the United States district court within any district wherein such applicant resides or has his principal place of business, or in the United States District Court for the District of Columbia, within sixty days after the entry of the order, a written petition praying that the order of the Secretary be set aside. The applicant shall serve a copy of the petition forthwith upon the Secretary, or upon any officer designated by him for that purpose, and thereupon the Secretary shall certify and file in the court a transcript of the record upon which the order complained of was entered. Upon the filing of such transcript the court shall have exclusive jurisdiction to affirm or set aside such order. The court shall not consider an objection to the order of the Secretary unless such objection was urged before the Secretary or unless there were reasonable grounds for failure so to do. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive. If any person applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such addi-

tional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence to be taken before the Secretary and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court seems proper. The Secretary may modify his findings as to the facts by reason of the additional evidence so taken, and he shall file with the court such modified findings which, if supported by substantial evidence, shall be conclusive, and his recommendations, if any, for the setting aside of the original order. The judgment and decree of the court affirming or setting aside any such order of the Secretary shall be final, subject to review as provided in sections 1254 and 1291-1294 of Title 28. The commencement of proceedings under this subsection shall not, unless specifically ordered by the court to the contrary, operate as a stay of the Secretary's order.

(i) Exemption of Drugs for Research.—The Secretary shall promulgate regulations for exempting from the operation of this section drugs intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety of drugs.

§ 76. Certification of drugs containing insulin

(a) The Secretary, pursuant to regulations promulgated by the Secretary, shall provide for the certification of batches of drugs composed wholly or partly of insulin. A batch of any such drug shall be certified only if such drug has such characteristics of identity and such batch has such characteristics of strength, quality, and purity, as the Secretary prescribes in such regulations as necessary adequately to insure safety and efficacy of use. Prior to the effective date of such regulations the Secretary, in lieu of certification, shall issue a release for any batch which, in his judgment, may be released without risk as to the safety and efficacy of its use. Such release shall prescribe the date of its expiration and other conditions under which it shall cease to be effective as to such batch and as to portions thereof.

(b) Regulations providing for such certifications shall contain such provisions as are necessary to carry out the purposes of this section, including provisions prescribing (1) standards of identity and of strength, quality, and purity; (2) tests and methods of assay to determine compliance with such standards; (3) effective periods for certificates, and other conditions under which they shall cease to be effective as to certified batches and as to portions thereof; (4) administration and procedure; and (5) such fees, specified in such regulations,

as are necessary to provide, equip, and maintain an adequate certification service. Such regulations shall prescribe no standard of identity or of strength, quality, or purity for any drug different from the standard of identity, strength, quality, or purity set forth for such drug in an official compendium.

(c) Such regulations, insofar as they prescribe tests or methods of assay to determine strength, quality, or purity of any drug, different from the tests or methods of assay set forth for such drug in an official compendium, shall be prescribed, after notice and opportunity for revision of such compendium, in the manner provided in the second sentence of section 71 (b) of this title. The provisions of subsections (e), (f), and (g) of section 131 of this title shall be applicable to such portion of any regulation as prescribes any such different test or method, but shall not be applicable to any other portion of any such regulation.

§ 77. Certification of drugs containing certain antibiotics

(a) *Regulations for Certification.*—The Secretary, pursuant to regulations promulgated by the Secretary, shall provide for the certification of batches of drugs composed wholly or partly of any kind of penicillin, streptomycin, chlortetracycline, chloramphenicol, or bacitracin, or any derivative of any of them. A batch of any such drug shall be certified only if such drug has such characteristics of identity and such batch has such characteristics of strength, quality, and purity, as the Secretary prescribes in such regulations as necessary adequately to insure safety and efficacy of use. Prior to the effective date of such regulations the Secretary, in lieu of certification, shall issue a release for any batch which, in the Secretary's judgment, may be released without risk as to the safety and efficacy of its use. Such release shall prescribe the date of its expiration and other conditions under which it shall cease to be effective as to such batch and as to portions thereof.

(b) *Provisions of Regulations.*—Regulations providing for such certifications shall contain such provisions as are necessary to carry out the purposes of this section, including provisions prescribing (1) standards of identity and of strength, quality, and purity; (2) tests and methods of assay to determine compliance with such standards; (3) effective periods for certificates, and other conditions under which they shall cease to be effective as to certified batches and as to portions thereof; (4) administration and procedure; and (5) such fees, specified in such regulations, as are necessary to provide, equip, and main-

tain an adequate certification service. Such regulations shall prescribe only such tests and methods of assay as will provide for certification or rejection within the shortest time consistent with the purposes of this section.

(c) *Exemption of Drugs Not Involving Safety and Efficacy of Use.*—Whenever in the judgment of the Secretary, the requirements of this section and of section 72 (l) of this title with respect to any drug or class of drugs are not necessary to insure safety and efficacy of use, the Secretary shall promulgate regulations exempting such drug or class of drugs from such requirements.

(d) *Other Exemptions.*—The Secretary shall promulgate regulations exempting from any requirement of this section and of section 72 (l) of this title, (1) drugs which are to be stored, processed, labeled, or repacked at establishments other than those where manufactured, on condition that such drugs comply with all such requirements upon removal from such establishments; (2) drugs which conform to applicable standards of identity, strength, quality, and purity prescribed by these regulations and are intended for use in manufacturing other drugs; and (3) drugs which are intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety and efficacy of drugs.

(e) *Application of Other Sections; Determination of Compliance.*—No drug which is subject to this section shall be subject to section 75 of this title. Compliance of any drug subject to this section or to section 72 (l) of this title with sections 71 (b) and 72 (g) of this title shall be determined by the application of the standards of strength, quality, and purity, the tests and methods of assay, and the requirements of packaging and labeling, respectively, prescribed by regulations promulgated under this section.

(f) *Procedure for Issuance, Amendment, or Repeal of Regulations.*—Any interested person may file with the Secretary a petition proposing the issuance, amendment, or repeal of any regulation contemplated by this section. The petition shall set forth the proposal in general terms and shall state reasonable grounds therefor. The Secretary shall give public notice of the proposal and an opportunity for all interested persons to present their views thereon, orally or in writing, and as soon as practicable thereafter shall make public the Secretary's action upon such proposal. At any time prior to the thirtieth day after such action is made public any interested person may file objections to such action, specifying with particularity the changes desired, stating reasonable grounds therefor, and requesting a public

hearing upon such objections. The Secretary shall thereupon, after due notice, hold such public hearing. As soon as practicable, after completion of the hearing, the Secretary shall by order make public the Secretary's action on such objections. The order shall be based only on substantial evidence of record at the hearing and shall include detailed findings of fact on which it is based. The order shall be subject to the provisions of section 131 (f) and (g) of this title.

SUBCHAPTER IV—COSMETICS

§ 91. *Adulterated cosmetics*

A cosmetic is deemed to be adulterated—

(a) *If it bears or contains any poisonous or deleterious substance which may render it injurious to users under the conditions of use prescribed in the labeling thereof, or under such conditions of use as are customary or usual. This provision does not apply to coal-tar hair dye, the label of which bears the following legend conspicuously displayed thereon: "Caution—This product contains ingredients which may cause skin irritation on certain individuals and a preliminary test according to accompanying directions should first be made. This product must not be used for dyeing the eyelashes or eyebrows; to do so may cause blindness.", and the labeling of which bears adequate directions for such preliminary testing. For the purposes of this paragraph and paragraph (e) of this section the term "hair dye" does not include eyelash dyes or eyebrow dyes.*

(b) *If it consists in whole or in part of any filthy, putrid, or decomposed substance.*

(c) *If it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth or whereby it may have been rendered injurious to health.*

(d) *If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.*

(e) *If it is not a hair dye and it bears or contains a coal-tar color other than one from a batch that has been certified in accordance with regulations as provided by section 94 of this title.*

§ 92. *Misbranded cosmetics*

A cosmetic is deemed to be misbranded—

(a) *If its labeling is false or misleading in any particular.*

(b) *If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms*

of weight, measure, or numerical count. Under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary.

(c) If any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(d) If its container is so made, formed, or filled as to be misleading.

§ 93. Exemptions

The Secretary shall promulgate regulations exempting from any labeling requirement of this chapter cosmetics which are, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such cosmetics are not adulterated or misbranded under the provisions of this chapter upon removal from such processing, labeling, or repacking establishment.

§ 94. Certification of coal-tar colors for cosmetics

The Secretary shall promulgate regulations providing for the listing of coal-tar colors which are harmless and suitable for use in cosmetics and for the certification of batches of such colors, with or without harmless diluents.

SUBCHAPTER V—IMPORTS AND EXPORTS

§ 111. Examination and refusal of imports

(a) The Secretary of the Treasury shall deliver to the Secretary of Health, Education, and Welfare, upon the latter Secretary's request, samples of food, drugs, devices, and cosmetics which are being imported or offered for import into the United States, giving notice thereof to the owner or consignee, who may appear before the Secretary of Health, Education, and Welfare and have the right to introduce testimony. If it appears from the examination of such samples or otherwise that the article (1) has been manufactured, processed, or packed under insanitary conditions, or (2) is forbidden or restricted in sale in the country in which it was produced or from which it was exported, or (3) is adulterated, misbranded, or in violation of section 75 of this title, the Secretary of the Treasury shall refuse to admit the article, except as

provided in subsection (b) of this section. He shall cause the destruction of any such article refused admission unless it is exported, under regulations prescribed by him, within ninety days of the date of notice of such refusal or within such additional time permitted pursuant to such regulations. This subsection does not prohibit the admission of narcotic drugs the importation of which is permitted under section 763 of this title.

(b) Pending decision as to the admission of an article being imported or offered for import, the Secretary of the Treasury may authorize delivery of such article to the owner or consignee upon the execution by him of a good and sufficient bond providing for the payment of such liquidated damages in the event of default as may be required pursuant to regulations of the Secretary of the Treasury. If it appears to the Secretary of Health, Education, and Welfare that an article included within the provisions of clause (3) of subsection (a) of this section can, by relabeling or other action, be brought into compliance with this chapter or rendered other than a food, drug, device, or cosmetic, the Secretary of the Treasury may defer final determination as to admission of such article and, upon filing of timely written application by the owner or consignee and the execution by him of a bond as provided in the preceding provisions of this subsection, the Secretary of Health, Education, and Welfare may, in accordance with regulations, authorize the applicant to perform such relabeling or other action specified in such authorization (including destruction or export of rejected articles or portions thereof, as may be specified in the latter Secretary's authorization). All such relabeling or other action pursuant to such authorization shall in accordance with regulations be under the supervision of an officer or employee of the Department of Health, Education, and Welfare designated by the Secretary of that Department, or an officer or employee of the Department of the Treasury designated by the Secretary of the Treasury.

(c) The owner or consignee shall pay all expenses, including travel, per diem or subsistence, and salaries of officers or employees of the United States, determined in accordance with regulations, in connection with the destruction provided for in subsection (a) of this section and the supervision of the relabeling or other action authorized under subsection (b) of this section, and all expenses in connection with the storage, cartage, or labor with respect to any article refused admission under subsection (a) of this section. In default of payment, expenses specified in this subsection shall constitute a lien against any future importations made by such owner or consignee.

§ 112. *Exports adulterated or misbranded*

A food, drug, device, or cosmetic intended for export is not deemed to be adulterated or misbranded under this chapter if it (a) accords to the specifications of the foreign purchaser, (b) is not in conflict with the laws of the country to which it is intended for export, and (c) is labeled on the outside of the shipping package to show that it is intended for export. Such article sold or offered for sale in domestic commerce, is not exempt from any of the provisions of this chapter.

§ 113. *Suspension of adulterated imports*

Whenever the President is satisfied that there is good reason to believe that any importation is being made, or is about to be made, into the United States, from any foreign country, of any article used for human food or drink that is adulterated to an extent dangerous to the health or welfare of the people of the United States, or any of them, he may issue his proclamation suspending the importation of such articles from such country for such period of time as he believes necessary to prevent such importation. During such period no person shall import any of such articles into the United States from the countries designated in the proclamation of the President.

SUBCHAPTER VI—ADMINISTRATIVE PROVISIONS

§ 131. *Regulations; hearings; judicial review*

(a) Regulations Authorized.—The Secretary may promulgate regulations for the efficient enforcement of this chapter, except as otherwise provided in this section.

(b) Imports and Exports.—The Secretary of the Treasury and the Secretary of Health, Education, and Welfare shall jointly prescribe regulations for the efficient enforcement of the provisions of section 111 and 112 of this title, except as otherwise provided therein, in such manner and to take effect at such time, after due notice, as the Secretary of Health, Education, and Welfare determines.

(c) Conduct of Hearings.—The Secretary or such officer or employee as he designates shall conduct the hearings authorized or required by this chapter.

(d) Standards of Identity in Other Laws.—The definitions and standards of identity promulgated in accordance with the provisions of this chapter shall be effective for the purposes of the enforcement of this chapter, notwithstanding such definitions and standards as may be contained in other laws of the United States and regulations promulgated thereunder.

(e) Hearings on Regulations.—The Secretary, on his own initia-

tive or upon an application of any interested industry or substantial portion thereof stating reasonable grounds therefor, shall hold a public hearing upon a proposal to issue, amend, or repeal any regulation contemplated by sections 53 (j), 55 (a), 55 (b), 57 (a), 71 (b), 72 (d), 72 (h), 74, and 94 of this title.

The Secretary shall give appropriate notice of the hearing, setting forth the proposal in general terms and specifying the time and place for the hearing not less than thirty days after the date of the notice, except that the public hearing on regulations under section 57 (a) of this title may be held within a reasonable time, to be fixed by the Secretary, after notice thereof. At the hearing any interested person may be heard in person or by his representative. As soon as practicable after completion of the hearing, the Secretary shall by order make public his action in issuing, amending, or repealing the regulation or determining not to take such action. Such order shall be based only on substantial evidence of record at the hearing and shall include detailed findings of fact on which it is based. No such order shall take effect prior to the ninetieth day after it is issued, except that if the Secretary finds that emergency conditions exist necessitating an earlier effective date, then the Secretary shall specify in the order the Secretary's findings as to such conditions and the order shall take effect at such earlier date as the Secretary specifies.

(f) *Judicial Review.*—(1) In a case of actual controversy as to the validity of any order under subsection (e) of this section, any person who will be adversely affected by such order if placed in effect may at any time prior to the ninetieth day after such order is issued file a petition with the United States Court of Appeals for the circuit wherein such person resides or has his principal place of business, for a judicial review of such order. The summons and petition may be served at any place in the United States. The Secretary, promptly upon service of the summons and petition, shall certify and file in the court the transcript of the proceedings and the record on which the Secretary based the order.

(2) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence, and evidence in rebuttal thereof, to be taken before the Secretary, and to be adduced upon the hearing, in such manner and upon such terms and conditions as the court deems proper. The Secretary may modify

the Secretary's findings as to the facts, or make new findings, by reason of the additional evidence so taken, and file such modified or new findings, and the Secretary's recommendation, if any, for the modification or setting aside of the Secretary's original order, with the return of such additional evidence.

(3) The court may affirm the order, or set it aside in whole or in part, temporarily or permanently. If the order of the Secretary refuses to issue, amend, or repeal a regulation and such order is not in accordance with law the court shall by its judgment order the Secretary to take action, with respect to such regulation, in accordance with law. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive.

(4) The judgment of the court affirming or setting aside, in whole or in part, any such order of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of Title 28.

(5) Any action instituted under this subsection shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

(6) The remedies provided for in this subsection shall be in addition to, and not in substitution for, any other remedies provided by law. Nothing in this section shall be deemed to waive or deny any right otherwise accorded by the Administrative Procedure Act, and such Act shall continue to apply to all activities of the Food and Drug Administration.

(g) Copies of Records of Hearings.—The Secretary shall furnish a certified copy of the transcript of the record and proceedings under subsection (e) of this section to any interested party at his request, on payment of the costs thereof. Such copy shall be admissible in any criminal, libel for condemnation, exclusion of imports, or other proceeding arising under or in respect to this chapter, irrespective of whether proceedings with respect to the order have previously been instituted or become final under subsection (f) of this section.

§ 132. Examinations and investigations

(a) The Secretary may conduct examinations and investigations for the purposes of this chapter through officers and employees of the Department or through any health, food, or drug officer or employee of any State, Territory, or political subdivision thereof, duly commissioned by the Secretary as an officer of the Department. In the

case of food packed in a Territory the Secretary shall attempt to make inspection of such food at the first point of entry within the United States when, in his opinion and with due regard to the enforcement of all the provisions of this chapter, the facilities at his disposal will permit of such inspection. For the purposes of this subsection the term "United States" means the States and the District of Columbia.

(b) Where a sample of a food, drug, or cosmetic is collected for analysis under this chapter, the Secretary shall, upon request provide a part of such official sample for examination or analysis by any person named on the label of the article, or the owner thereof, or his attorney or agent; except that the Secretary may, by regulations, make such reasonable exceptions from, and impose such reasonable terms and conditions relating to, the operation of this subsection as he finds necessary for the proper administration of the provisions of this chapter.

(c) For purposes of enforcement of this chapter, records of any department or independent establishment in the executive branch of the Government shall be open to inspection by any official of the Department of Health, Education, and Welfare authorized by the Secretary to make such inspection.

§ 133. Records of interstate shipment

For the purpose of enforcing the provisions of this chapter, carriers engaged in interstate commerce, and persons receiving food, drugs, devices, or cosmetics in interstate commerce or holding such articles so received, shall, upon the request of an officer or employee duly designated by the Secretary, permit him, at reasonable times, to have access to and to copy all records showing the movement in interstate commerce of any food, drug, device, or cosmetic, or the holding thereof during or after such movement, and the quantity, shipper, and consignee thereof. It shall be unlawful for any such carrier or person to fail to permit such access to and copying of any such record so requested when such request is accompanied by a statement in writing specifying the nature or kind of food, drug, device, or cosmetic to which such request relates. Evidence obtained under this section shall not be used in a criminal prosecution of the person from whom it is obtained.

Carriers shall not be subject to the other provisions of this chapter by reason of their receipt, carriage, holding, or delivery of food, drugs, devices, or cosmetics in the usual course of business as carriers.

§ 134. *Factory inspection; notice; reports; receipts for samples; copies of analyses*

(a) *For purposes of enforcement of this chapter, officers or employees duly designated by the Secretary, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, are authorized (1) enter, at reasonable times, any factory, warehouse, or establishment in which food, drugs, devices, or cosmetics are manufactured, processed, packed, or held, for introduction into interstate commerce or are held after such introduction, or enter any vehicle being used to transport or hold such food, drugs, devices, or cosmetics in interstate commerce; and (2) inspect, at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, establishment, or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling therein. A separate notice shall be given for each such inspection, but a notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness.*

(b) *Upon completion of any such inspection of a factory, warehouse, or other establishment, and prior to leaving the premises, the officer or employee making the inspection shall give to the owner, operator, or agent in charge a report in writing setting forth any conditions or practices observed by him which, in his judgment, indicate that any food, drug, device, or cosmetic in such establishment (1) consists in whole or in part of any filthy, putrid, or decomposed substance, or (2) has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health. A copy of such report shall be sent promptly to the Secretary.*

(c) *If the officer or employee making any such inspection of a factory, warehouse, or other establishment has obtained any sample in the course of the inspection, upon completion of the inspection and prior to leaving the premises he shall give to the owner, operator, or agent in charge a receipt describing the samples obtained.*

(d) *Whenever in the course of any such inspection of a factory or other establishment where food is manufactured, processed, or packed, the officer or employee making the inspection obtains a sample of any such food, and an analysis is made of such sample for the purpose of*

ascertaining whether such food consists in whole or in part of any filthy, putrid, or decomposed substance, or is otherwise unfit for food, a copy of the results of such analysis shall be furnished promptly to the owner, operator, or agent in charge.

§ 135. *Publicity*

(a) The Secretary shall cause to be published from time to time reports summarizing all judgments, decrees, and court orders rendered under this chapter, including the nature of the charge and the disposition thereof.

(b) The Secretary may also cause to be disseminated information regarding food, drugs, devices, or cosmetics in situations involving, in the Secretary's opinion, imminent danger to health or gross deception of the consumer. Nothing in this section shall be construed to prohibit the Secretary from collecting, reporting, and illustrating the results of the investigations of the Department.

§ 136. *Cost of certification of coal-tar colors*

The admitting to listing and certification of coal-tar colors, in accordance with regulations prescribed under this chapter, shall be performed only upon payment of fees specified in such regulations, as may be necessary to provide, maintain, and equip an adequate service for such purposes.

§ 137. *Revision of Pharmacopeia; development of analyses and tests*

The Secretary, in carrying into effect the provisions of this chapter, may cooperate with associations and scientific societies in the revision of the United States Pharmacopeia and in the development of methods of analysis and mechanical and physical tests necessary to carry out the work of the Food and Drug Administration.

SUBCHAPTER VII—ENFORCEMENT AND PENALTIES

§ 151. *Prohibited acts*

The following acts and the causing thereof are prohibited:

(a) The introduction or delivery for introduction into interstate commerce of any food, drug, device, or cosmetic that is adulterated or misbranded.

(b) The adulteration or misbranding of any food, drug, device, or cosmetic in interstate commerce.

(c) The receipt in interstate commerce of any food, drug, device, or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise.

(d) *The introduction or delivery for introduction into interstate commerce of any article in violation of section 57 or 75 of this title.*

(c) *The refusal to permit access to or copying of any record as required by section 133 of this title.*

(f) *The refusal to permit entry or inspection as authorized by section 134 of this title.*

(g) *The manufacture within any Territory of any food, drug, device, or cosmetic that is adulterated or misbranded.*

(h) *The giving of a guaranty or undertaking referred to in section 152 (c) (2) of this title which is false, except by a person who relied upon a guaranty or undertaking to the same effect signed by, and containing the name and address of, the person residing in the United States from whom he received in good faith the food, drug, device, or cosmetic; or the giving of a guaranty or undertaking referred to in section 152 (c) (3) of this title which guaranty or undertaking is false.*

(i) *Forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp, tag, label, or other identification device authorized or required by regulations promulgated under the provisions of sections 55 (b), 57, 58, 74, 76, 77, or 94 of this title.*

(j) *The using by any person to his own advantage, or revealing, other than to the Secretary or officers or employees of the Department, or to the courts when relevant in any judicial proceeding under this chapter, any information acquired under authority of sections 57, 75, 76, 77, or 134 of this title concerning any method or process which as a trade secret is entitled to protection.*

(k) *The alteration mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to, a food, drug, device, or cosmetic, if such act is done while such article is held for sale (whether or not the first sale) after shipment in interstate commerce and results in such article being adulterated or misbranded.*

(l) *The using, on the labeling of any drug or in any advertising relating to such drug, of any representation or suggestion that an application with respect to such drug is effective under section 75 of this title, or that such drug complies with the provisions of such section.*

(m) *The sale or offering for sale of colored oleomargarine or colored margarine, or the possession or serving of colored oleomargarine or colored margarine in violation of subsection (b) or (c) of section 60 of this title.*

(n) *The using, in labeling, advertising, or other sales promotion, of any reference to any report or analysis furnished in compliance with section 134 of this title.*

§ 152. Penalties; exemptions

(a) *Any person who violates any of the provisions of section 151 of this title shall be imprisoned not more than one year or fined not more than \$1,000, or both. Any person who commits such a violation after one conviction under this section has become final shall be imprisoned not more than three years or fined not more than \$10,000, or both.*

(b) *Notwithstanding the provisions of subsection (a) of this section, any person who violates any of the provisions of section 151 of this title, with intent to defraud or mislead, shall be imprisoned not more than three years or fined not more than \$10,000, or both.*

(c) *No person shall be subject to the penalties of subsection (a) of this section—*

(1) *for having received in interstate commerce any article and delivered it or proffered delivery of it, if such delivery or proffer was made in good faith, unless he refuses to furnish on request of an officer or employee duly designated by the Secretary the name and address of the person from whom he purchased or received such article and copies of all documents, if any, pertaining to the delivery of the article to him; or*

(2) *for having violated section 151 (a) or 151 (d) of this title, if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person residing in the United States from whom he received the article in good faith, to the effect, in case of an alleged violation of section 151 (a) of this title, that such article is not adulterated or misbranded, within the meaning of this chapter, designating this chapter, or to the effect, in case of an alleged violation of section 151 (d) of this title, that such article is not an article which may not, under the provisions of section 57 or 75 of this title, be introduced into interstate commerce; or*

(3) *for having violated section 151 (a) of this title, where the violation exists because the article is adulterated by reason of containing a coal-tar color not from a batch certified in accordance with the Secretary's regulations, if such person establishes a guaranty or undertaking signed by, and containing the name and address of, the manufacturer of the coal-tar color, to the effect that such color was from a batch certified in accordance with the applicable regulations promulgated by the Secretary under this chapter; or*

(4) *for having violated section 151 (b), 151 (c), or 151 (k) of this title by failure to comply with section 72 (f) of this title in respect to an article received in interstate commerce to which neither section 73 (a) nor section 73 (b) (1) is applicable, if the delivery or proffered delivery was made in good faith and the labeling at the time thereof contained the same directions for use and warning statements as were contained in the labeling at the time of such receipt of such article.*

§ 153. Injunctions

(a) *The United States district courts and the United States courts of the Territories shall have jurisdiction, for cause shown, and subject to the provisions of Rule 65 (a) (b) of the Federal Rules of Civil Procedure, to restrain violations of section 151 of this title, except paragraphs (e), (f), (h), (i), and (j), thereof.*

(b) *Any violation of an injunction or restraining order issued under this section, which also constitutes a violation of this chapter, shall be tried by the court, or, upon demand of the accused, by a jury, in accordance with the practice and procedure applicable in the case of proceedings subject to the provisions of section 402 of Title 18.*

§ 154. Libel for condemnation

(a) *Grounds and Jurisdiction.*—Any article of food, drug, device, or cosmetic that is adulterated or misbranded when introduced into or while in interstate commerce or while held for sale (whether or not the first sale) after shipment in interstate commerce, or which may not, under the provisions of section 57 or 75 of this title, be introduced into interstate commerce, shall be liable to be proceeded against while in interstate commerce, or at any time thereafter, on libel of information and condemned in any district court of the United States within the jurisdiction of which the article is found.

(b) *Procedure.*—The article shall be liable to seizure by process pursuant to the libel, and the procedure in cases under this section shall conform, as nearly as may be, to the procedure in admiralty; except that on demand of either party any issue of fact joined in any such case shall be tried by jury.

(c) (1) *Libels for Misbranding Limited; Change of Venue.*—No libel for condemnation for any alleged misbranding shall be instituted under this chapter, if there is pending in any court a libel for condemnation proceeding under this chapter based upon the same alleged misbranding, and not more than one such proceeding shall be instituted if no such proceeding is so pending, except that such limitations shall not apply—

(A) *when such misbranding has been the basis of a prior judgment in favor of the United States, in a criminal, injunction, or libel for condemnation proceeding under this chapter, or*

(B) *when the Secretary has probable cause to believe from facts found, without hearing, by him or any officer or employee of the Department that the misbranded article is dangerous to health.*

(2) *In any case where the number of libel for condemnation proceedings is limited as above provided the proceeding pending or instituted shall, on application of the claimant, seasonably made, be removed for trial to any district agreed upon by stipulation between the parties, or, in case of failure to so stipulate within a reasonable time, the claimant may apply to the court of the district in which the seizure has been made, and such court, after giving the United States attorney for such district reasonable notice and opportunity to be heard, shall by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the claimant's principal place of business, to which the case shall be removed for trial.*

(d) *Consolidation of Multiple Proceedings.*—When libel for condemnation proceedings under this section, involving the same claimant and the same issues of adulteration or misbranding, are pending in two or more jurisdictions, such pending proceedings, upon application of the claimant seasonably made to the court of one such jurisdiction, shall be consolidated for trial by order of such court, and tried in (1) any district selected by the claimant where one of such proceedings is pending; or (2) a district agreed upon by stipulation between the parties. If no order for consolidation is so made within a reasonable time, the claimant may apply to the court of one such jurisdiction, and such court, after giving the United States attorney for such district reasonable notice and opportunity to be heard, shall by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the claimant's principal place of business, in which all such pending proceedings shall be consolidated for trial and tried. Such order of consolidation shall not apply so as to require the removal of any case the date for trial of which has been fixed. The court granting such order shall give prompt notification thereof to the other courts having jurisdiction of the cases covered thereby.

(e) *Removal for Trial.*—In the case of removal for trial of any case as provided by subsection (c) or (d) of this section—

(1) *The clerk of the court from which removal is made shall promptly transmit to the court in which the case is to be tried all*

records in the case necessary in order that such court may exercise jurisdiction.

(2) *The court to which such case is removed shall have the powers and be subject to the duties, for purposes of the case, which the court from which removal is made would have, or to which such court would be subject, if such case is not removed.*

(f) *Samples of Seized Goods.*—*The court at any time after seizure up to a reasonable time before trial shall by order allow any party to a condemnation proceeding, his attorney or agent, to obtain a representative sample of the article seized and a true copy of the analysis, if any, on which the proceeding is based and the identifying marks or numbers, if any, of the packages from which the samples analyzed were obtained.*

(g) *Disposition After Condemnation.*—*Any food, drug, device, or cosmetic condemned under this section shall, after entry of the decree, be disposed of by destruction or sale as the court may direct in accordance with the provisions of this section. If sold, the proceeds thereof, less the legal costs and charges, shall be paid into the Treasury of the United States. Such article shall not be sold under such decree contrary to the provisions of this chapter or the laws of the jurisdiction in which sold. After entry of the decree and upon the payment of the costs of such proceedings and the execution of a good and sufficient bond conditioned that such article shall not be sold or disposed of contrary to the provisions of this chapter or the laws of any State or Territory in which sold, the court may by order direct that such article be delivered to the owner thereof to be destroyed or brought into compliance with the provisions of this chapter under the supervision of an officer or employee duly designated by the Secretary, and the expenses of such supervision shall be paid by the person obtaining release of the article under bond. Any article condemned by reason of its being an article which may not, under section 56 or 75 of this title, be introduced into interstate commerce, shall be disposed of by destruction.*

(h) *Costs.*—*When a decree of condemnation is entered against the article, court costs and fees, and storage and other proper expenses, shall be awarded against the person, if any, intervening as claimant of the article.*

§ 155. Hearing before violation reported

Before any violation of this chapter is reported by the Secretary to any United States attorney for institution of a criminal proceeding,

the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his views, either orally or in writing, with regard to such contemplated proceeding.

§ 156. Report of minor violations

Nothing in this chapter shall be construed as requiring the Secretary to report for prosecution, or for the institution of libel or injunction proceedings, minor violations of this chapter whenever the Secretary believes that the public interest will be adequately served by a suitable written notice or warning.

§ 157. Proceedings in name of United States; subpoenas

All proceedings for the enforcement, or to restrain violations, of this chapter shall be by and in the name of the United States. Subpoenas for witnesses who are required to attend a court of the United States, in any district, may run into any other district in any such proceeding.

CHAPTER 5—MILK AND CREAM

SUBCHAPTER I—IMPORTATION OF MILK AND CREAM

Sec.

201. Definitions.

202. Permits for importation.

203. Unfitness for importation.

204. Inspection, issue of permits; regulations.

205. Penalties.

206. State powers concerning milk and cream.

207. Short title.

SUBCHAPTER II—FILLED MILK

Sec.

221. Definitions.

222. Filled milk; Congressional finding concerning.

223. Regulations.

224. Penalties.

225. Short title.

SUBCHAPTER I—IMPORTATION OF MILK AND CREAM

§ 201. Definitions

As used in this subchapter—

(a) “Person” means an individual, partnership, corporation, or association.

(b) “United States” means the continental United States.

§ 202. Permits for importation

No person shall import milk and cream into the United States unless the person by whom it is shipped or transported holds a valid permit from the Secretary of Health, Education, and Welfare.

§ 203. *Unfitness for importation*

Milk or cream shall be considered unfit for importation—

(a) *when all cows producing such milk or cream are not healthy and a physical examination of all such cows has not been made within one year previous to such milk being offered for importation;*

(b) *when such milk or cream, if raw, is not produced from cows which have passed a tuberculin test applied by a duly authorized official veterinarian of the United States, or of the country in which such milk or cream is produced, within one year previous to the time of the importation, showing that such cows are free from tuberculosis;*

(c) *when the sanitary conditions of the dairy farm or plant in which it is produced or handled do not score at least fifty points out of one hundred points according to the current methods for scoring as provided by the score cards used by the United States Department of Agriculture;*

(d) *if the number of bacteria per cubic centimeter exceeds in the case of raw milk three hundred thousand, in the case of raw cream seven hundred and fifty thousand, and in the case of pasteurized milk one hundred thousand, and in the case of pasteurized cream five hundred thousand;*

(e) *when the temperature of milk or cream at the time of importation exceeds fifty degrees Fahrenheit.*

§ 204. *Inspection; issue of permits; regulations*

(a) *The Secretary of Health, Education, and Welfare shall cause such inspections to be made as are necessary to insure that milk and cream are produced and handled in compliance with section 203 of this title. When the Secretary finds that milk or cream is produced and handled so as not to be unfit for importation under section 203 (a), (b), and (c) of this title, the Secretary shall issue to persons making application therefor permits to ship milk or cream into the United States. In lieu of the inspections to be made by or under the direction of the Secretary, the Secretary may, in the Secretary's discretion, accept a duly certified statement signed by a duly accredited official of an authorized department of any foreign government or of any State of the United States or any municipality thereof that the provisions in section 203 (a), (b), and (c) of this title have been complied with. Such certificate shall be in the form prescribed by the Secretary.*

(b) *The Secretary may, in the Secretary's discretion, waive the requirements of section 203 (d) of this title when issuing permits to*

operators of condenseries in which milk or cream is used when sterilization of the milk or cream is a necessary process, except that no milk or cream shall be imported the bacterial count of which per cubic centimeter in any event exceeds one million two hundred thousand. Such requirements shall not be waived unless the farm producing such milk to be imported is within a radius of fifteen miles of the condensery in which it is to be processed. If milk or cream imported when the requirements of section 203 (d), of this title, have been so waived, is sold, used, or disposed of in its raw state or otherwise than as condensed milk by any person, the permit shall be revoked and the importer shall be subject to fine, imprisonment, or other penalty prescribed by this subchapter.

(c) The Secretary shall waive the requirements of section 203 (b) and (e) of this title insofar as the same relate to milk when issuing permits to operators of, or to producers for delivery to, creameries and condensing plants in the United States within twenty miles of the point of production of the milk, and who import no raw milk except for pasteurization or condensing. If milk imported when the requirements of section 203 (b) and (e) of this title have been so waived is sold, used, or disposed of in its raw state, or otherwise than as pasteurized, condensed, or evaporated milk by any person, the permit shall be revoked and the importer shall be subjected to fine, imprisonment, or other penalty prescribed by this subchapter.

(d) The Secretary shall make and enforce such regulations as the Secretary deems necessary to carry out the purpose of this subchapter for the issuance of permits to import milk and cream, for the handling of milk and cream, for the inspection of milk, cream, cows, barns, and other facilities used in the production and handling of milk and cream, and for the handling, keeping, transporting, and importing of milk and cream. Unless and until the Secretary provides for inspections to ascertain that section 203 (a), (b), and (c) of this title has been complied with, the Secretary shall issue temporary permits to any applicants therefor to ship or transport milk or cream into the United States.

(e) The Secretary may suspend or revoke any permit for the shipment of milk or cream into the United States when the Secretary finds that the holder thereof has failed to comply with the provisions of, or has violated, this subchapter, or any of the regulations made under this subchapter, or that the milk or cream brought or shipped by the holder of such permit into the United States is not produced and handled in

conformity with, or that the quality thereof does not conform to, all of the provisions of section 203 of this title.

§ 205. Penalties

(a) *No person in the United States shall receive milk or cream imported into the United States unless the importation is in accordance with the provisions of this subchapter.*

(b) *Any person who knowingly violates any provision of this subchapter shall, in addition to all other penalties prescribed by law, be fined not more than \$2,000 or imprisoned not more than one year, or both.*

§ 206. State powers concerning milk and cream

Nothing in this subchapter shall be construed to affect the powers of any State, or any political subdivision thereof, to regulate the shipment of milk or cream into, or the handling, sale, or other disposition of milk or cream in, such State or political subdivision after the milk or cream has been lawfully imported under this subchapter.

§ 207. Short title

This subchapter may be cited as the "Federal Import Milk Act".

SUBCHAPTER II—FILLED MILK

§ 221. Definitions

As used in this subchapter—

(a) *"Filled milk" means any milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat, so that the resulting product is in imitation or semblance of milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated. This definition does not include any distinctive proprietary food compound not readily mistaken in taste for milk or cream or for evaporated, condensed, or powdered milk, or cream where such compound (1) is prepared and designed for feeding infants and young children and customarily used on the order of a physician; (2) is packed in individual cans containing not more than sixteen and one-half ounces and bearing a label in bold type that the content is to be used only for such purpose; and (3) is shipped in interstate or foreign commerce exclusively to physicians, wholesale and retail druggists, orphan asylums, child-welfare associations, hospitals, and similar institutions and generally disposed of by them.*

(b) *"Interstate or foreign commerce" means commerce (1) between any State, Territory, or possession, or the District of Columbia, and*

any place outside thereof; (2) between points within the same State, Territory, or possession, or within the District of Columbia, but through any place outside thereof; or (3) within any Territory or possession, or within the District of Columbia.

(c) "Person" means an individual, partnership, corporation, or association.

§ 222. Filled milk; Congressional finding concerning

Filled milk is an adulterated article of food, injurious to the public health, and its sale constitutes a fraud upon the public.

§ 223. Regulations

The Secretary of Health, Education, and Welfare shall make and enforce such regulations as the Secretary deems necessary to carry out the purposes of this subchapter.

§ 224. Penalties

Any person who manufactures within any Territory or possession, or within the District of Columbia, or ships or delivers for shipment in interstate or foreign commerce, any filled milk, shall be fined not more than \$1,000 or imprisoned not more than one year, or both. When construing and enforcing the provisions of this subchapter, the act, omission, or failure of any person acting for or employed by any individual, partnership, corporation, or association, within the scope of his employment or office, shall in every case be deemed the act, omission, or failure, of each individual, partnership, corporation, or association, as well as of such person.

§ 225. Short title

This subchapter may be cited as the "Federal Filled Milk Act".

CHAPTER 7—TEA IMPORTATION

Sec.

261. Substandard tea importation; materials for manufacturing.

262. Standards; duplicate samples.

263. Importer's bonds and fees; sampling and examination.

264. Permit for delivery; inferior grades; partial delivery.

265. Examiners.

266. Examination according to usages of trade.

267. Re-examination by Appeals Board; disposition of tea.

268. Procedure for re-examination; assistance of experts.

269. Reimporting rejected teas; forfeitures.

270. Regulations.

271. Short title.

§ 261. Substandard tea importation; materials for manufacturing

(a) *No person shall import or bring into the United States any merchandise as tea which is inferior in purity, quality, and fitness for consumption to the standards provided in section 262 of this title.*

(b) *Nothing in this chapter shall affect or prevent the importation*

into the United States, under such regulations as the Secretary of Health, Education, and Welfare prescribes, of any merchandise as tea which may be inferior in purity, quality, and fitness for consumption to the standards established by the Secretary, or of any tea waste, tea siftings, or tea sweepings, for the sole purpose of manufacturing theine, caffeine, or other chemical products whereby the identity and character of the original material is entirely destroyed or changed. Importers and manufacturers who import such tea, tea waste, tea siftings, or tea sweepings into the United States shall give suitable bond, to be subject to the approval only of the collector of customs at the port of entry, conditioned that said imported material shall be used only for the purposes provided in this subsection, under such regulations as may be prescribed by the Secretary.

§ 262. Standards; duplicate samples

The Board of Tea Experts shall prepare and submit standard samples of tea to the Secretary of Health, Education, and Welfare who, upon the Board's recommendation, shall fix and establish uniform standards of purity, quality, and fitness for consumption of all kinds of teas imported into the United States. The Secretary shall procure and deposit in the customhouses of the ports of New York, Chicago, San Francisco, and such other ports as the Secretary may determine, duplicate samples of such standards; and the Secretary shall procure a sufficient number of other duplicate samples to supply the importers and dealers in tea at all ports desiring the same at cost. All teas, or merchandise described as tea, of inferior purity, quality, and fitness for consumption to such standards shall be deemed within the prohibition of section 261 of this title.

§ 263. Importer's bonds and fees; sampling and examination

(a) On making entry at the customhouse of all teas, or merchandise described as tea, imported into the United States, the importer or consignee shall give a bond to the collector of the port that such merchandise shall not be removed from the warehouse until released by the collector, after it shall have been duly examined with reference to its purity, quality, and fitness for consumption. For the purpose of such examination samples of each line in every invoice of tea shall be submitted by the importer or consignee to the examiner, together with the sworn statement of such importer or consignee that such samples represent the true quality of each part of the invoice and accord with the specifications therein contained, or in the discretion of the Secretary, such samples shall be obtained by the examiner and compared by

him with the standards established by this chapter. Where entry is made at ports where there is no qualified examiner as provided in section 265 of this title, the consignee or importer shall furnish such samples and sworn statement to the collector or other revenue officer to whom it is committed the collection of duties, who shall also draw or cause to be drawn samples of each line in every invoice and shall forward the same to a duly qualified examiner as provided in that section. The bond required by this section shall also be conditioned for the payment of all customhouse charges which may attach to such merchandise prior to its being released or destroyed, as the case may be, under the provisions of this chapter.

(b) The collector shall not examine for importation, or release, any tea, or merchandise described as tea, under this chapter unless the importer or consignee thereof, prior to such examination, has paid for deposit into the Treasury of the United States as miscellaneous receipts, a fee of 3.5 cents for each hundredweight or fraction thereof of such tea and merchandise.

§ 264. Permit for delivery; inferior grades; partial delivery

If, after an examination as provided in section 263 of this title, the tea is found by the examiner to be equal in purity, quality, and fitness for consumption to the standards provided in this chapter, and no reexamination is demanded by the collector as provided in section 267 of this title, a permit shall at once be granted to the importer or consignee declaring the tea free from the control of the customs authorities. If tea, or merchandise described as tea, is found, in the opinion of the examiner, to be inferior in purity, quality, and fitness for consumption to such standards, the importer or consignee shall be immediately notified, and the tea, or merchandise described as tea, shall not be released by the customhouse, unless on a reexamination called for by the importer or consignee the finding of the examiner is found to be erroneous. If a portion of the invoice is passed by the examiner, a permit shall be granted for that portion and the remainder held for further examination, as provided in said section 267.

§ 265. Examiners

The examination provided for by this chapter shall be made by a duly qualified examiner at a port where standard samples are established. Where the merchandise is entered at ports where there is no qualified examiner, the examination shall be made at that one of said ports which is nearest the port of entry, and for this purpose samples obtained in the manner prescribed by section 263 of this title shall be

forwarded to the proper port by the collector or chief officer at the port of entry.

§ 266. Examination according to usages of trade

In all cases of examination or reexamination of teas, or merchandise described as tea, by examiners or the United States Board of Tea Appeals under the provisions of this chapter, the purity, quality, and fitness for consumption of the same shall be tested according to the usages and customs of the tea trade, including the testing of an infusion of the same in boiling water, and, if necessary, chemical analysis.

§ 267. Reexamination by Appeals Board; disposition of tea

(a) If the collector, importer, or consignee protests against the finding of the examiner, the matter in dispute shall be referred for decision to the United States Board of Tea Appeals.

(b) If the Board, after examination, finds the tea in question to be equal in purity, quality, and fitness for consumption to the proper standards, the collector shall issue a permit for its release and delivery to the importer.

(c) If upon final reexamination by the Board the tea is found to be inferior in purity, quality, and fitness for consumption to the said standards, the importer or consignee shall give a bond, with security satisfactory to the collector, to export said tea, or merchandise described as tea, out of the limits of the United States within a period of six months after such final reexamination, and if the same has not been exported within the time specified, the collector, at the expiration of that time, shall cause the same to be destroyed.

§ 268. Procedure for reexamination; assistance of experts

In cases of reexamination of teas, or merchandise described as teas, by the United States Board of Tea Appeals in pursuance of the provisions of this chapter, the examiner shall put up and seal samples of the tea, or merchandise described as tea, in dispute, in the presence of the importer or consignee if he so desires, and transmit them to the Board, together with a copy of his finding, setting forth the cause of condemnation and the claim or ground of the protest of the importer relating to the same. Such samples and papers shall be distinguished by an identifying mark.

The decision of the Board shall be in writing, signed by its members, and transmitted with the record and samples to the collector within three days after its rendition. The collector shall forthwith

furnish the examiner and the importer or consignee with a copy of such decision.

The United States Board of Tea Appeals may obtain the advice, when necessary, of persons skilled in the examination of teas, who shall each receive for his services in any particular case a compensation not exceeding \$5.

§ 269. Reimporting rejected teas; forfeiture

No imported teas which have been rejected by an examiner or by the United States Board of Tea Appeals, and exported under the provisions of this chapter, shall be reimported into the United States. Any such teas so reimported shall be forfeited.

§ 270. Regulations

The Secretary of Health, Education, and Welfare may enforce this chapter by appropriate regulations.

§ 271. Short title

This chapter and sections 3 and 4 of this title may be cited as the "Federal Import Tea Act".

CHAPTER 9—CAUSTIC POISONS

Sec.

311. Definitions.

312. Misbranded shipments.

313. Misbranded imports.

314. Removal of labels.

315. Enforcement.

316. Label for condemnation.

317. Penalties.

318. Institution of condemnation and criminal proceedings.

319. Construction; application of other provisions.

320. Short title.

§ 311. Definitions

As used in this chapter, unless the context otherwise requires—

(a) "Dangerous caustic or corrosive substance" means:

(1) *hydrochloric acid and any preparation containing free or chemically unneutralized hydrochloric acid (HCl) in a concentration of 10 per centum or more;*

(2) *sulphuric acid and any preparation containing free or chemically unneutralized sulphuric acid (H_2SO_4) in a concentration of 10 per centum or more;*

(3) *nitric acid or any preparation containing free or chemically unneutralized nitric acid (HNO_3) in a concentration of 5 per centum or more;*

(4) *carbolic acid (C_6H_5OH), otherwise known as phenol, and any preparation containing carbolic acid in a concentration of 5 per centum or more;*

(5) *oxalic acid and any preparation containing free or chemically unneutralized oxalic acid ($H_2C_2O_4$) in a concentration of 10 per centum or more;*

(6) *any salt of oxalic acid and any preparation containing any such salt in a concentration of 10 per centum or more;*

(7) *acetic acid or any preparation containing free or chemically unneutralized acetic acid ($HC_2H_3O_2$) in a concentration of 20 per centum or more;*

(8) *hypochlorous acid, either free or combined, and any preparation containing the same in a concentration so as to yield 10 per centum or more by weight of available chlorine, excluding calx chlorinata, bleaching powder, and chloride of lime;*

(9) *potassium hydroxide and any preparation containing free or chemically unneutralized potassium hydroxide (KOH), including caustic potash and Vienna paste, in a concentration of 10 per centum or more;*

(10) *sodium hydroxide and any preparation containing free or chemically unneutralized sodium hydroxide ($NaOH$), including caustic soda and lye, in a concentration of 10 per centum or more;*

(11) *silver nitrate, sometimes known as lunar caustic, and any preparation containing silver nitrate ($AgNO_3$) in a concentration of 5 per centum or more; and*

(12) *ammonia water and any preparation containing free or chemically uncombined ammonia (NH_3), including ammonium hydroxide and "hartshorn", in a concentration of 5 per centum or more.*

(b) *"Misbranded parcel, package, or container" means a retail parcel, package, or container of any dangerous caustic or corrosive substance not bearing a conspicuous, easily legible label or sticker, containing—*

(1) *the common name of the substance;*

(2) *the name and place of business of the manufacturer, packer, seller, or distributor;*

(3) *the word "poison", running parallel with the main body of reading matter on the label or sticker, on a clear, plain background of a distinctly contrasting color, in uncondensed gothic capital letters, the letters to be not less than twenty-four-point size unless there is on the label or sticker no other type so large, in which event the type shall be not smaller than the largest type on the label or sticker; and*

(4) *directions for treatment in case of accidental personal injury by any dangerous caustic or corrosive substance, except that such direc-*

tions need not appear on labels or stickers, on parcels, packages, or containers at the time of shipment or of delivery for shipment by manufacturers and wholesalers for other than household use.

(c) "Interstate or foreign commerce" means commerce (1) between any State, Territory, or possession, or the District of Columbia, and any place outside thereof, or (2) between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof, or (3) within any Territory or possession, or the District of Columbia.

(d) "Person" means an individual, partnership, corporation, or association.

§ 312. Misbranded shipments

(a) No person shall ship or deliver for shipment in interstate or foreign commerce or receive from shipment in such commerce any dangerous caustic or corrosive substance for sale or exchange, or sell or offer for sale any such substance in any Territory or possession or in the District of Columbia, in a misbranded parcel, package, or container suitable for household use.

(b) The provisions of subsection (a) of this section do not apply—

(1) to any regularly established common carrier shipping or delivering for shipment, or receiving from shipment, any such substance in the ordinary course of its business as a common carrier; nor

(2) to any person in respect of any such substance shipped or delivered for shipment, or received from shipment, for export to any foreign country, in a parcel, package, or container branded in accordance with the specifications of a foreign purchaser and in accordance with the laws of the foreign country; nor

(3) to any dealer who establishes a guaranty signed by, and containing the name and address of, the wholesaler, jobber, manufacturer, or other party residing in the United States, from whom he purchased such articles, to the effect that the articles are not misbranded within the meaning of this chapter. In such case the person giving such guaranty shall be amenable to the prosecutions, fines, and other penalties which would otherwise attach, in due course, to the dealer under the provisions of this chapter.

§ 313. Misbranded imports

(a) Whenever any dangerous caustic or corrosive substance is offered for importation and the Secretary of Health, Education, and Welfare has reason to believe that such substance is being shipped in interstate or foreign commerce in violation of section 312 of this title,

the Secretary shall give due notice and opportunity for hearing thereon to the owner or consignee and certify such fact to the Secretary of the Treasury, who shall thereupon either (1) refuse admission and delivery to the consignee of such substance, or (2) deliver such substance to the consignee pending examination, hearing, and decision in the matter, on the execution of a penal bond to the amount of the full invoice value of such substance, together with the duty thereon, if any, and to the effect that on refusal to return such substance for any cause to the Secretary of the Treasury when demanded, for the purpose of excluding it from the country or for any other purpose, the consignee shall forfeit the full amount of the bond.

(b) If, after proceeding in accordance with subsection (a) of this section, the Secretary is satisfied that such substance offered for importation was shipped in interstate or foreign commerce in violation of any provision of this chapter, the Secretary shall certify the fact to the Secretary of the Treasury, who shall thereupon notify the owner or consignee and cause the sale or other disposition of such substance refused admission and delivery or entered under bond, unless it is exported by the owner or consignee or labeled by him so as to conform to the law within three months from the date of such notice, under such regulations as the Secretary of the Treasury may prescribe. All charges for storage, cartage, or labor on any such substance refused admission or delivery or entered upon bond shall be paid by the owner or consignee. In default of such payment such charges shall constitute a lien against any future importations made by such owner or consignee.

§ 314. Removal of labels

No person shall alter, mutilate, destroy, obliterate, or remove any label or sticker required by this chapter to be placed on any dangerous caustic or corrosive substance, if such substance is being—

- (a) shipped in interstate or foreign commerce; or*
- (b) held for sale or exchange after having been so shipped; or*
- (c) held for sale or exchange in any Territory or possession or in the District of Columbia.*

§ 315. Enforcement

(a) Except as otherwise specifically provided in this chapter, the Secretary of Health, Education, and Welfare shall enforce its provisions.

(b) For enforcing the provisions of sections 313, 316, and 317 of this title, the Secretary may cause investigations, inspections, analyses,

and tests to be made and samples to be collected, of any dangerous caustic or corrosive substance. The Department of Health, Education, and Welfare shall pay to the person entitled, upon his request, the reasonable market value of any such sample taken. If it appears from the inspection, analysis, or test of any dangerous caustic or corrosive substance that such substance is in a misbranded package, parcel, or container suitable for household use, the Secretary shall cause notice thereof to be given to any person who may be liable for any violation of section 312 or 314 of this title in respect of such substance. Any person so notified shall be given an opportunity to be heard under the Secretary's regulations. If it appears that such person has violated the provisions of section 312 or 314 of this title, the Secretary shall at once certify the facts to the proper United States attorney, with a copy of the results of the inspection, analysis, or test duly authenticated under oath by the person making it.

(c) For the enforcement of his functions under this chapter the Secretary may—

(1) prescribe and promulgate necessary regulations;

(2) cooperate with any department or agency of the Government, with any State, Territory, or possession, or with the District of Columbia, or with any department, agency, or political subdivision thereof, or with any person;

(3) appoint officers and employees necessary for the execution of this chapter and fix their salaries in accordance with the Classification Act of 1949;

(4) make such expenditures, including expenditures for personal services and rent at the seat of government and elsewhere, and for law books, books of reference, and periodicals, required for the execution of the Secretary's functions under this chapter and as provided for by the Congress from time to time; and

(5) give notice, by publication in such manner as the Secretary prescribes by regulation, of the judgment of the court in any case under the provisions of this chapter.

§ 316. Libel for condemnation

(a) Any dangerous caustic or corrosive substance in a misbranded parcel, package, or container suitable for household use shall be liable to be proceeded against in the United States district court for any judicial district in which the substance is found and to be seized for confiscation by a process of libel for condemnation, if such substance is being—

- (1) *shipped in interstate or foreign commerce, or*
- (2) *held for sale or exchange after having been so shipped, or*
- (3) *held for sale or exchange in any Territory or possession or in the District of Columbia.*

(b) *If such substance is condemned as misbranded by the court it shall be disposed of in the discretion of the court—*

- (1) *by destruction;*
- (2) *by delivery to the owner thereof upon the payment of legal costs and charges and execution and delivery of a good and sufficient bond to the effect that such substance will not be sold or otherwise disposed of in any jurisdiction contrary to the provisions of this chapter or the laws of such jurisdiction; or*

(3) *by sale. The proceeds of the sale, less legal costs and charges, shall be paid into the Treasury as miscellaneous receipts. Such substance shall not be sold in any jurisdiction contrary to the provisions of this chapter or the laws of such jurisdiction, and the court may require the purchaser at any such sale to label such substance in compliance with law before the delivery thereof.*

(c) *Proceedings in such libel cases shall conform, as nearly as may be, to suits in rem in admiralty, except that either party may demand trial by jury on any issue of fact if the value in controversy exceeds \$20. In case of a jury trial the verdict of the jury shall have the same effect as a finding of the court upon the facts. All such proceedings shall be at the suit and in the name of the United States.*

§ 317. Penalties

(a) *Any person who violates any provision of section 312 or 314 of this title shall be fined not more than \$1,000 or imprisoned not more than one year, or both. Any person who commits such a violation after one conviction under this section has become final shall be fined not more than \$10,000 or imprisoned not more than three years, or both.*

(b) *Notwithstanding the provisions of subsection (a) of this section, any person who violates any provision of section 312 or 314 of this title, with intent to defraud or mislead, shall be fined not more than \$10,000 or imprisoned not more than three years, or both.*

§ 318. Institution of condemnation and criminal proceedings

Each United States attorney to whom the Secretary shall report any violation of section 312 or 314 of this title or to whom any health, medical, or drug officer or agent of any State, Territory, or possession, or of the District of Columbia presents satisfactory evidence of any

such violation, shall cause libel for condemnation and criminal proceedings under sections 316 and 317 of this title to be commenced and prosecuted in the proper court of the United States, without delay, for the enforcement of the condemnation and penalties provided in such sections.

§ 319. Construction; application of other provisions

(a) This chapter is not to be construed as modifying or limiting in any way the right of any person to manufacture, pack, ship, sell, barter, and distribute dangerous caustic or corrosive substances in parcels, packages, or containers, labeled as required by this chapter.

(b) The provisions of this chapter shall be held to be in addition to and not in substitution for the provisions of the following:

(1) chapter 3 of this title;

(2) chapter 6 of Title 7;

(3) the Act entitled "An Act to regulate the practice of pharmacy and the sale of poisons in the District of Columbia, and for other purposes", approved May 7, 1906, as amended.

§ 320. Short title

This chapter may be cited as the "Federal Caustic Poison Act."

PART II.—ANIMALS, POULTRY AND MEATS

Chapter	Sec.
51. Department of Agriculture-----	451
53. Meat Inspection-----	491
55. Animal and Poultry Disease Prevention; Transportation, Import, and Export-----	551
57. Serums and Analogous Products-----	611

CHAPTER 51—DEPARTMENT OF AGRICULTURE

Sec.

451. Administration of Part II; delegation of functions.

§ 451. Administration of Part II; delegation of functions

The provisions of this part shall be administered by the Secretary of Agriculture, except as otherwise provided herein. Such Secretary's functions under this part shall be performed by him or, subject to his direction and control, by such officers and agencies of the Department of Agriculture as he designates.

CHAPTER 53—MEAT INSPECTION

Sec.

491. Definitions.

492. Ante-mortem inspections.

493. Post-mortem inspections.

494. Meat food products.

495. Canning or packing meats and products; labels.

496. Inspection of establishments.

497. Time of inspections.

Sec.

- 498. Meat for export; inspection; clearance.
- 499. Inspector's certificates.
- 500. Inspection, stamps or marks.
- 501. Farmers and retail butchers and dealers, exemptions.
- 502. Inspectors; appointment, powers, and duties.
- 503. Regulations.
- 504. Cost of inspections.
- 505. Transportation of uninspected and unmarked articles.
- 506. Transportation or sale in violation of chapter.
- 507. Forgery or misuse of marks or certificates.
- 508. Penalties generally.
- 509. Penalty for sale or transportation of unfit products by exempted persons.
- 510. Bribery; acceptance of gifts.
- 511. Horse meat.
- 512. Dairy products for export.
- 513. Reindeer.

§ 491. Definitions

As used in this chapter—

(a) "establishment" means a slaughtering, canning, salting, packing, rendering, or similar establishment;

(b) "farmer" means any natural person or partnership chiefly engaged in producing agricultural products on whose farm the number of cattle, calves, sheep, lambs, swine, or goats is in keeping with the size of the farm or with the volume or character of the agricultural products produced thereon, but does not mean any person or partnership engaged in producing agricultural products who—

(1) actively engages in buying or trading in cattle, calves, sheep, lambs, swine, or goats; or

(2) actively engages, directly or indirectly, in conducting a business which includes the slaughter of cattle, calves, sheep, lambs, swine, or goats for food purposes; or

(3) actively engages, directly or indirectly, in buying or selling meat or meat food products other than those prepared by any farmer on the farm; or

(4) actively engages, directly or indirectly, in salting, curing, or canning meat, or in preparing sausage, lard, or other meat food products; or

(5) slaughters, or permits any person to slaughter, on his or their farm cattle, calves, sheep, lambs, swine, or goats which are not actually owned by him or them;

(c) "inspector" means an inspector appointed by the Secretary of Agriculture under the provisions of this chapter;

(d) "retail butcher" or "retail dealer" means any person chiefly engaged in selling meat or meat food products to consumers only, except that the Secretary, at his discretion, may permit any retail butcher or retail dealer to transport in interstate or foreign commerce to con-

sumers and meat retailers in any one week not more than five carcasses of cattle, twenty-five carcasses of calves, twenty carcasses of sheep, twenty-five carcasses of lambs, ten carcasses of swine, twenty carcasses of goats, or twenty-five carcasses of goat kids, or the equivalent of fresh meat therefrom, and to transport in interstate or foreign commerce to consumers only meat and meat food products which have been salted, cured, canned, or prepared as sausage, lard, or other meat food products, and which have not been inspected, examined, and marked as "Inspected and Passed" in accordance with this chapter and with the Secretary's rules and regulations;

5. "Secretary" means the Secretary of Agriculture.

§ 492. Ante-mortem inspections

For the purpose of preventing the use in interstate or foreign commerce of meat and meat food products which are unsound, unhealthful, unwholesome, or otherwise unfit for human food, the Secretary may cause to be made an examination and inspection of all cattle, sheep, swine, and goats, the meat and meat food products of which are to be used in interstate or foreign commerce, before they are allowed to enter into any establishment in which they are to be slaughtered. All such animals found on such inspection to show symptoms of disease shall be set apart and slaughtered separately from all other such animals. When so slaughtered the carcasses of such animals shall be subject to a careful examination and inspection, under the Secretary's rules and regulations, as provided for in this chapter.

§ 493. Post-mortem inspections

For the purpose set forth in section 492 of this title the Secretary shall cause to be made a post-mortem examination and inspection of the carcasses and parts thereof of all cattle, sheep, swine, and goats, which are to be prepared for human consumption at any establishment in any State or Territory or the District of Columbia for transportation or sale as articles of interstate or foreign commerce.

The carcasses and parts thereof of all such animals found to be sound, healthful, wholesome, and fit for human food shall be marked, stamped, tagged, or labeled as "Inspected and Passed".

All carcasses and parts thereof found to be unsound, unhealthful, unwholesome, or otherwise unfit for human food shall be marked, stamped, tagged, or labeled as "Inspected and Condemned", and all carcasses and parts thereof thus inspected and condemned shall be destroyed for food purposes by the establishment in the presence of an inspector.

After the first inspection, the inspectors shall, when they deem it necessary, reinspect the carcasses or parts thereof and if upon such reinspection any carcass or any part thereof is found to be unsound, unhealthful, unwholesome, or otherwise unfit for human food, it shall be destroyed for food purposes by the establishment in the presence of an inspector.

The Secretary may remove inspectors from any establishment which fails so to destroy any carcass or part thereof required to be destroyed by this section.

The provisions of this section apply to all carcasses or parts of carcasses of cattle, sheep, swine, and goats, or the meat or meat food products thereof which may be brought into any establishment, and such examination and inspection shall be had before the said carcasses or parts thereof are allowed to enter into any department wherein they are to be treated and prepared for meat food products. The provisions of this section also apply to all such products, which, after having been issued from any establishment, are returned to the same or to any similar establishment where such inspection is maintained.

§ 494. Meat food products

For the purpose set forth in section 492 of this title the Secretary shall cause to be made an examination and inspection of all meat food products prepared for interstate or foreign commerce in any establishment.

The inspectors shall mark, stamp, tag, or label as "Inspected and Passed" all such products found to be sound, healthful, and wholesome, and which contain no dyes, chemicals, preservatives, or ingredients which render such meat, or meat food products unsound, unhealthful, unwholesome, or unfit for human food.

The inspectors shall label, mark, stamp, or tag as "Inspected and Condemned" all such products found unsound, unhealthful, and unwholesome, or which contain dyes, chemicals, preservatives, or ingredients which render such meat or meat food products unsound, unhealthful, unwholesome, or unfit for human food, and all such condemned meat food products shall be destroyed for food purposes by the establishment in the presence of an inspector. The Secretary may remove inspectors from any establishment which fails to so destroy such condemned meat food products.

Subject to the Secretary's rules and regulations the provisions of this section in regard to preservatives shall not apply to meat food products for export to any foreign country and which are prepared or

packed according to the specifications or directions of the foreign purchaser, when no substance is used in the preparation or packing thereof in conflict with the laws of the foreign country to which said article is to be exported. If said article is in fact sold or offered for sale for domestic use or consumption, this paragraph shall not exempt said article from the operation of all the other provisions of this chapter.

§ 495. Canning or packing meats and products; labels

When any meat or meat food product prepared for interstate or foreign commerce which has been inspected under this chapter and marked "Inspected and Passed" is placed or packed in any can, pot, tin, canvas, or other receptacle or covering in any establishment where inspection is maintained under this chapter, the person preparing said product shall cause a label to be attached to said receptacle or covering, under the supervision of an inspector. Such label shall state that the contents thereof have been "Inspected and Passed" under the provisions of this chapter. No inspection and examination of meat or meat food products deposited or inclosed in cans, tins, pots, canvas, or other receptacle or covering in any such establishment shall be deemed to be complete until such meat or meat food products have been sealed or inclosed in said receptacle or covering under the supervision of an inspector.

No such meat or meat food products shall be sold or offered for sale by any person in interstate or foreign commerce under any false or deceptive name. Established trade name or names which are usual to such products and which are not false and deceptive and which are approved by the Secretary are permitted.

§ 496. Inspection of establishments

The Secretary shall cause inspections to be made, by experts in sanitation or by other competent inspectors, of all establishments defined in section 491 of this title in which cattle, sheep, swine, and goats are slaughtered and the meat and meat food products thereof are prepared for interstate or foreign commerce. The inspections shall be such as are necessary to inform the Secretary concerning the sanitary conditions of the establishments, and to enable him to prescribe the rules and regulations of sanitation under which such establishments shall be maintained. Where the sanitary conditions of any such establishment are such that the meat or meat food products are rendered unclean, unsound, unhealthful, unwholesome, or otherwise unfit for human food, the Secretary shall refuse to allow said meat or

meat food products to be labeled, marked, stamped, or tagged as "*Inspected and Passed.*"

§ 497. Time of inspections

(a) *The examinations and inspections required by sections 492, 493, 494, and 495 of this title shall be made during the nighttime as well as during the daytime when the slaughtering of the animals or preparation of the meat or meat food products is conducted during the nighttime.*

(b) *For the purposes of any examination and inspection under this chapter, the inspectors shall have access at all times, by day or night, whether the establishment is being operated or not, to every part of the establishment.*

§ 498. Meat for export; inspection; clearance

(a) *The Secretary shall cause to be made a careful inspection of the carcasses and parts thereof of all cattle, sheep, swine, and goats, when the fresh, salted, canned, corned, packed, cured, or otherwise prepared meat or meat food products of such animals is intended and offered for export to any foreign country, at such times and places and in such manner as he deems proper.*

(b) *No clearance shall be given to any vessel having on board any fresh, salted, canned, corned, or packed beef, mutton, pork, or goat meat, for export to and sale in a foreign country from any port in the United States, until the owner or shipper thereof shall obtain a certificate from an inspector that the cattle, sheep, swine, and goats from which such meat or meat food product was obtained, were sound and healthy at the time of inspection, and that their meat or meat food product is sound and wholesome, unless the Secretary has waived the requirement of such certificate for the country to which such meat or meat food product is to be exported.*

§ 499. Inspectors' certificates

The inspectors may give official certificates of the sound and wholesome condition of cattle, sheep, swine, and goats, their carcasses and products as described in this chapter.

One copy of each such certificate shall be filed in the Department of Agriculture, another copy shall be delivered to the owner or shipper, and when the carcasses of cattle, sheep, swine, and goats, and the meat and meat food products thereof are sent abroad, a third copy shall be delivered to the chief officer of the vessel on which the shipment is made.

§ 500. Inspection, stamps or marks

The inspectors shall refuse to stamp, mark, tag, or label as "Inspected and Passed" any carcass or any part thereof, or meat food product therefrom, prepared in any establishment subject to this chapter until the same has actually been inspected and found to be sound, healthful, wholesome, and fit for human food, and to contain no dyes, chemicals, preservatives, or ingredients which render such meat food product unsound, unhealthful, unwholesome, or unfit for human food, and to have been prepared under proper sanitary conditions.

§ 501. Farmers and retail butchers and dealers, exemptions

(a) The provisions of this chapter requiring inspection to be made by the Secretary do not apply to animals slaughtered by any farmer on the farm and sold and transported in interstate or foreign commerce, nor to retail butchers and retail dealers in meat and meat food products, supplying their customers.

No meat and meat food products derived from animals slaughtered by any farmer on the farm which are salted, cured, canned, or prepared into sausage, lard, or other meat food products at any place other than by the farmer on the farm upon which the animals were slaughtered shall be transported in interstate or foreign commerce under the farmers' exemption provided in this section. All fresh meat and all farm-cured or prepared meat and meat food products derived from animals slaughtered by any farmer on the farm which are to be used in interstate or foreign commerce shall be clearly marked with the name and address of the farmer on whose farm the animals were slaughtered.

(b) The Secretary may maintain the inspection provided for in this chapter at any establishment notwithstanding the exemptions contained in this section, and notwithstanding that the persons operating the same may be retail butchers and retail dealers or farmers. Where the Secretary establishes such inspection, the provisions of this chapter shall apply notwithstanding such exemptions.

§ 502. Inspectors; appointment, powers, and duties

The Secretary shall from time to time appoint inspectors to make the examinations and inspections provided for under this chapter and to perform such other duties as are required by this chapter and the Secretary's rules and regulations.

§ 503. Regulations

The Secretary shall make such rules and regulations as are necessary for the efficient execution of the provisions of this chapter. All inspections and examinations under this chapter shall be made in the manner provided in the Secretary's rules and regulations which are not inconsistent with this chapter.

§ 504. Cost of inspections

The United States shall bear the cost of inspections rendered under the requirements of this chapter except the cost of overtime pursuant to section 394 of title 7.

§ 505. Transportation of uninspected and unmarked articles

No person shall transport or offer for transportation, and no carrier of interstate or foreign commerce shall transport or receive for transportation from one State or Territory or the District of Columbia or to any other State or Territory or the District of Columbia, or to any place under the jurisdiction of the United States, or to any foreign country, any carcasses or parts thereof, meat, or meat food products thereof which have not been inspected, examined, and marked as "Inspected and Passed", in accordance with the terms of this chapter and with the Secretary's rules and regulations.

§ 506. Transportation or sale in violation of chapter

No person engaged in the interstate commerce of meat or meat food products shall transport or offer for transportation, sell or offer to sell, any such meat or meat food products in any State or Territory or in the District of Columbia or any place under the jurisdiction of the United States, other than in the State or Territory or in the District of Columbia or any place under the jurisdiction of the United States in which the slaughtering, packing, canning, rendering, or other similar establishment owned, leased, or operated by such person is located unless and until such person shall have complied with all of the provisions of this chapter.

§ 507. Forgery or misuse of marks or certificates

No person shall forge, counterfeit, simulate, or falsely represent, or shall without proper authority use, fail to use, or detach, or shall knowingly or wrongfully alter, deface, or destroy, or fail to deface or destroy, any of the marks, stamps, tags, labels, or other identification devices provided for in this chapter, or in and as directed by the rules and regulations prescribed under this chapter by the Secretary

of Agriculture, on any carcasses, parts of carcasses, or the food product, or containers thereof, subject to the provisions of this chapter or any certificate in relation thereto, authorized or required by this chapter or by the said rules and regulations of the Secretary of Agriculture.

§ 508. Penalties generally

Except as provided in sections 509 and 510 of this title, whoever violates any of the provisions of this chapter shall be fined not more than \$10,000 or imprisoned not more than one year, or both.

§ 509. Penalty for sale or transportation of unfit products by exempted persons

Whoever, being a farmer, retail butcher, or retail dealer acting under the exemptions provided in section 502 of this title, sells or offers for sale or transportation for interstate or foreign commerce any meat or meat food products which are diseased, unsound, unhealthful, unwholesome, or otherwise unfit for human food, knowing that such meat food products are intended for human consumption, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

§ 510. Bribery; acceptance of gifts

(a) Whoever gives, pays, or offers, directly or indirectly, to any inspector, deputy inspector, chief inspector, or any other officer or employee of the United States authorized to perform any of the duties prescribed by this chapter or by the Secretary's rules and regulations, any money or other thing of value, with intent to influence such inspector, deputy inspector, chief inspector, or other officer or employee of the United States in the discharge of any duty provided for in this chapter, shall be fined not more than \$10,000 or imprisoned not more than three years, or both.

(b) Whoever, being an inspector, deputy inspector, chief inspector, or other officer or employee of the United States authorized to perform any of the duties prescribed by this chapter, accepts any money, gift, or other thing of value from any person, given with intent to influence his official action, or who receives or accepts from any person engaged in interstate or foreign commerce any gift, money, or other thing of value, given with any purpose or intent whatsoever, shall be summarily discharged from office and shall be fined not more than \$10,000 or imprisoned not more than three years, or both.

§ 511. *Horse meat*

(a) *No person shall transport or offer for transportation, and no carrier of interstate or foreign commerce shall transport or receive for transportation from one State or Territory or the District of Columbia to any other State or Territory or the District of Columbia or to any place under the jurisdiction of the United States or to any foreign country, any equine meat or food products thereof unless plainly and conspicuously labeled, marked, branded or tagged "Horse meat" or "Horse-meat Product", as the case may be, under rules and regulations prescribed by the Secretary.*

(b) *All the penalties, terms and provisions in this chapter, except the exemption in section 501 of this title applying to animals slaughtered by any farmer on a farm and to retail butchers and retail dealers in meat food products supplying their customers, shall be applicable to (1) horses, their carcasses, parts of carcasses, and meat food products thereof, (2) the establishments and other places where such animals are slaughtered or the meat or meat food products thereof are prepared or packed for interstate or foreign commerce, and (3) all persons who slaughter such animals or prepare or handle such meat or meat food products for interstate or foreign commerce.*

§ 512. *Dairy products for export*

This chapter shall be deemed to include dairy products intended for exportation to any foreign country. The Secretary may apply, under rules and regulations prescribed by him, the provisions of this chapter for inspection and certification appropriate for ascertaining the purity and quality of such products, and may cause them to be so marked, stamped, or labeled as to secure their identity and make known in the markets of foreign countries to which they may be sent from the United States their purity, quality, and grade. All the provisions of this chapter relating to live cattle and products thereof for export shall apply to dairy products so inspected and certified.

§ 513. *Reindeer*

The provisions of this chapter may be extended to the inspection of reindeer.

CHAPTER 55—ANIMAL AND POULTRY DISEASE PREVENTION; TRANSPORTATION, IMPORT, AND EXPORT

Sec.

551. *Measures and regulations to prevent introduction or spread of disease.*

552. *Control of diseases; cooperation with States.*

553. *Research laboratories for foot-and-mouth and other diseases.*

554. *Appointment of agents to make recommendations.*

Sec.

- 555. *Cooperation with Mexico; foot-and-mouth disease and rinderpest; reports to Congress.*
- 556. *Cattle grubs, research and eradication.*
- 557. *International boundary fences.*
- 558. *Regulation of transportation and exportation generally.*
- 559. *Quarantine of infected areas.*
- 560. *Regulations for transportation from quarantined areas.*
- 561. *Transportation from quarantined areas prohibited; exceptions.*
- 562. *Transportation of diseased livestock or poultry prohibited.*
- 563. *Cattle reacting to tuberculin test, transportation of.*
- 564. *Domestic animals reacting to test for paratuberculosis or brucellosis.*
- 565. *Regulation and promotion of exports.*
- 566. *Suspension of importation.*
- 567. *Importation of diseased or exposed animals and poultry prohibited.*
- 568. *Importation prohibited except at quarantine stations.*
- 569. *Quarantine of imported animals and poultry.*
- 570. *Inspection and disposition of imported animals and poultry.*
- 571. *Disease control in District of Columbia.*
- 572. *Inspection by Department as precluding other inspections and fees.*
- 573. *Penalties.*
- 574. *Prosecution of violations; venue.*

§ 551. Measures and regulations to prevent introduction or spread of disease

The Secretary of Agriculture may—

(1) *make regulations and take measures to prevent the introduction or dissemination of the contagion of any communicable disease of animals or poultry from a foreign country into the United States or from one State or Territory of the United States or the District of Columbia to another, and*

(2) *seize, quarantine, and dispose of any hay, straw, forage, or similar material, or any meats, hides, or other animal or poultry products coming from an infected foreign country to the United States, or from one State or Territory or the District of Columbia in transit to another State or Territory or the District of Columbia whenever in his judgment such action is advisable to guard against the introduction or spread of such contagion.*

§ 552. Control of diseases; cooperation with States

(a) *The Secretary of Agriculture shall prepare rules and regulations for the speedy and effectual control and eradication of dangerous communicable diseases of domestic animals and poultry. He shall certify such rules and regulations to the executive authority of each State and Territory, and invite said authorities to cooperate in the execution and enforcement of the provisions of this chapter. Whenever the plans and methods of the Secretary are accepted by any State or Territory in which any such disease is declared to exist, or whenever such State or Territory adopts plans and methods for the control and eradication of the disease and such plans and methods are*

accepted by the Secretary of Agriculture, and whenever the governor of a State or other properly constituted authorities signify their readiness to cooperate for the extinction of the disease in conformity with the provisions of this chapter, the Secretary may expend so much of the money appropriated for carrying out the provisions of this chapter as may be necessary in such investigations, and in such disinfection and quarantine measures as may be necessary to prevent the spread of the disease from one State or Territory into another.

(b) The Secretary of Agriculture, either independently or in cooperation with States or political subdivisions thereof, farmers' associations, and similar organizations, and individuals, may control and eradicate tuberculosis and paratuberculosis of animals, avian tuberculosis, brucellosis of domestic animals, southern cattle ticks, hog cholera and related swine diseases, scabies in sheep and cattle, dourine in horses, scrapie and blue tongue in sheep, incipient or potentially serious minor outbreaks of diseases in animals and poultry, and communicable diseases of animals and poultry which in the opinion of the Secretary constitute an emergency and threaten the livestock industry of the country, including the purchase and destruction of diseased or exposed animals and poultry, or the destruction of such animals and poultry and the payment of indemnities therefor, in accordance with such regulations as the Secretary prescribes. As used in this subsection, the term "State" includes the District of Columbia and the Territories and possessions of the United States.

§ 553. Research laboratories for foot-and-mouth and other diseases

The Secretary of Agriculture may establish research laboratories, including the acquisition of necessary land, buildings, or facilities, and also the making of research contracts under the authority contained in section 427i (a) of Title 7, for research and study, in the United States or elsewhere, of foot-and-mouth disease and other animal and poultry diseases which in his opinion constitute a threat to the livestock or poultry industry of the United States.

No live virus of foot-and-mouth disease may be introduced for any purpose into any part of the mainland of the United States except coastal islands separated therefrom by waters navigable for deep-water navigation and which are not connected with the mainland by any tunnel, and except further, that in the event of outbreak of foot-and-mouth disease in this country, the Secretary of Agriculture may, at his discretion, permit said virus to be brought into the United States under adequate safeguards.

To carry out the provisions of this section, the Secretary may employ technical experts or scientists without regard to the Classification Act of 1949, but the number so employed shall not exceed five and the maximum compensation for each shall not exceed \$15,000 per annum. There is authorized to be appropriated such sums as Congress may deem necessary and, in addition, the Secretary may utilize, in carrying out this section, funds otherwise available for the control or eradication of such diseases.

§ 554. Appointment of agents to make recommendations

The Secretary of Agriculture may appoint two competent agents, who are practical stock raisers or experienced businessmen familiar with questions pertaining to commercial transactions in livestock or poultry, who shall, under the instructions of the Secretary, examine and report upon the best methods of treating, transporting, and caring for animals and poultry, and the means to be adopted for the control and eradication of contagious pleuropneumonia, and provide against the spread of other dangerous communicable diseases. The compensation of such agents shall be at the rate of \$10 per diem, with all necessary expenses, while engaged in the actual performance of their duties under this section, when absent from their usual place of business or residence.

§ 555. Cooperation with Mexico; foot-and-mouth disease and rinderpest; reports to Congress

(a) The Secretary of Agriculture may cooperate with the Government of Mexico in carrying out operations or measures to eradicate, suppress, or control, or to prevent or retard, foot-and-mouth disease or rinderpest in Mexico where he deems such action necessary to protect the livestock and related industries of the United States. In performing such operations or measures, the Government of Mexico shall be responsible for the authority necessary to carry them out on all lands and properties in Mexico and for such other facilities and means as are necessary in the discretion of the Secretary of Agriculture. The measure and character of cooperation carried out under this section on the part of the United States and on the part of the Government of Mexico, including the expenditure or use of funds appropriated pursuant to this section, shall be such as may be prescribed by the Secretary of Agriculture. Arrangements for such cooperation shall be made through and in consultation with the Secretary of State. The authority contained in this section is in addition to and not in substitution for the authority of existing law.

(b) For purposes of this section, funds appropriated pursuant

thereto may also be used for (1) the purchase or hire of passenger motor vehicles and aircraft, (2) printing and binding without regard to section 111 of Title 44, (3) the employment of civilian nationals of Mexico, and (4) the construction and operation of research laboratories, quarantine stations and other buildings and facilities.

(c) *The Secretary of Agriculture shall make a report to the Congress on the last day of each month with respect to the activities carried on under this section.*

§ 556. Cattle grubs, research and eradication

In order to protect, promote, and conserve livestock and livestock products and to minimize losses, the Secretary of Agriculture, either independently or in cooperation with States or subdivisions thereof, farmers' associations, and other organizations and individuals, may increase and intensify research and investigations into problems and methods relating to the eradication of cattle grubs and undertake measures to eradicate these parasites. As used in this section, the term "State" includes the District of Columbia and the Territories and possessions of the United States. Funds appropriated to carry out this section shall be expended in accordance with procedures prescribed by the Secretary.

§ 557. International boundary fences

The Secretary of Agriculture may permit the erection of fences along international boundary lines, but entirely within the territory of the United States, for the purpose of keeping out diseased animals and poultry.

§ 558. Regulation of transportation and exportation generally

In order to enable the Secretary of Agriculture effectually to control and eradicate dangerous communicable diseases in cattle and other livestock and poultry, and to prevent the spread of such diseases he shall establish such rules and regulations concerning the exportation and transportation of livestock and poultry from any place within the United States where he may have reason to believe such diseases may exist into and through any State or Territory, and into and through the District of Columbia and to foreign countries as he deems necessary. All such rules and regulations shall have the force of law.

§ 559. Quarantine of infected areas

The Secretary of Agriculture shall quarantine any State or Territory or the District of Columbia, or any portion of any State or Territory or the District of Columbia, when he determines the fact that cattle or other livestock or poultry in such State or Territory or

District of Columbia are affected with any communicable disease. He shall give written or printed notice of the establishment of quarantine to the proper officers of railroad, steamboat, or other transportation companies doing business in or through any quarantined State or Territory or the District of Columbia, and publish such notice in such newspapers in the quarantined State or Territory or the District of Columbia as he may select.

§ 560. Regulations for transportation from quarantined areas

The Secretary of Agriculture shall, when the public safety will permit, make and promulgate rules and regulations which shall permit and govern the inspection, disinfection, certification, treatment, handling, and method and manner of delivery and shipment of cattle or other livestock or poultry from a quarantined State or Territory or the District of Columbia, and from the quarantined portion of any State or Territory or the District of Columbia, into any other State or Territory or the District of Columbia. The Secretary shall give notice of such rules and regulations in the manner provided in section 559 of this title for notice of establishment of quarantine.

§ 561. Transportation from quarantined areas prohibited; exceptions

(a) No railroad company and no owners or masters of any vessel or boat shall receive for transportation or transport, no person shall deliver for transportation to any railroad company or to the master or owner of any vessel or boat, and no person shall drive or cause to be driven on foot or transport or cause to be transported by private conveyance, any cattle or other livestock or poultry from any quarantined State or Territory or the District of Columbia, or from any quarantined portion thereof, into any other State or Territory or the District of Columbia, except in compliance with rules and regulations promulgated by the Secretary of Agriculture under section 560 of this title.

(b) The provisions of subsection (a) of this section and sections 559, 560, and 573 (b) of this title shall apply to any railroad company or other common carrier whose road or line forms any part of a route over which cattle or other livestock or poultry are transported in the course of shipment from any quarantined State or Territory or the District of Columbia, or from the quarantined portion of any State or Territory or the District of Columbia, into any other State or Territory or the District of Columbia.

§ 562. Transportation of diseased livestock or poultry prohibited

No railroad company within the United States, and no owners or masters of any vessel or boat, shall receive for transportation or transport from one State or Territory to another, or from any State into the District of Columbia, or from the District into any State, any livestock or poultry affected with any communicable disease; nor shall any person deliver for such transportation to any railroad company, or master or owner of any boat or vessel, any livestock or poultry, knowing them to be affected with any communicable disease. No person shall drive on foot, or transport in private conveyance, from one State or Territory to another, or from any State into the District of Columbia, or from the District into any State, any livestock or poultry, knowing them to be affected with any communicable disease.

§ 563. Cattle reacting to tuberculin test, transportation of

Cattle which have reacted to the tuberculin test may be shipped, transported, or moved from one State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia, for immediate slaughter, in accordance with such rules and regulations as shall be prescribed by the Secretary of Agriculture. The Secretary may, in his discretion, and under such rules and regulations as he may prescribe, permit cattle which have been shipped for breeding or feeding purposes from one State, Territory, or the District of Columbia to another State, Territory or the District of Columbia, and which have reacted to the tuberculin test subsequent to such shipment, to be reshipped in interstate commerce to the original owner.

§ 564. Domestic animals reacting to test for paratuberculosis or brucellosis

Domestic animals which have reacted to a test recognized by the Secretary of Agriculture for paratuberculosis or which, never having been vaccinated for brucellosis, have reacted to a test recognized by the Secretary of Agriculture for brucellosis, may be shipped, transported, or otherwise moved from one State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia for immediate slaughter in accordance with such rules and regulations as the Secretary of Agriculture may prescribe to prevent the dissemination of said diseases from one State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia.

The Secretary of Agriculture may, in his discretion and under such rules and regulations as he may prescribe, permit domestic animals which have been moved from one State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia, for breeding purposes, and which, subsequent to such movement, have reacted to a test for brucellosis or paratuberculosis recognized by the Secretary of Agriculture, to be reshipped in interstate commerce to the original owner at the point of origin.

§ 565. Regulation and promotion of exports

(a) The Secretary of Agriculture may take such steps and adopt such measures, not inconsistent with the provisions of this chapter, as he deems necessary to prevent the exportation from any port of the United States to any port in a foreign country of livestock or poultry affected with any communicable disease.

(b) In order to promote the exportation of livestock and poultry from the United States the Secretary of Agriculture shall make special investigation as to the existence of any communicable disease, along the borders between the United States and foreign countries, and along the lines of transportation from all parts of the United States to ports from which livestock or poultry are exported, and shall, from time to time, establish such regulations concerning the exportation and transportation of livestock or poultry as the results of such investigations may require.

(c) The Secretary of Agriculture, by such orders and regulations as he prescribes, may cause inspection to be made of all cattle, sheep, other ruminants, swine, and poultry intended for exportation, and provide for the disinfection of all vessels engaged in the transportation thereof, and of all barges or other vessels used in the conveyance of such animals and poultry to the ocean steamer or other vessels, and of all attendants and their clothing, and of all headropes and other appliances used in such exportation. If, upon such inspection, any such animals or poultry are adjudged, under the Secretary's regulations, to be infected or to have been exposed to infection so as to be dangerous to other animals or poultry, they shall not be allowed to be placed upon any vessel for exportation. The expenses of all the inspection and disinfection provided for in this subsection shall be borne by the owners of the vessels on which such animals or poultry are exported.

(d) The Secretary shall cause to be made a careful inspection of all cattle, sheep, swine, and goats intended and offered for export to

foreign countries at such times and places, and in such manner, as he deems proper to ascertain whether such animals are free from disease.

(e) No clearance shall be given to any vessel having on board cattle, sheep, swine, or goats for export to a foreign country until the owner or shipper of such animals has a certificate from an inspector stating that the animals are sound and healthy, or unless the Secretary has waived the requirement of such certificate for export to the particular country to which they are to be exported.

§ 566. Suspension of importation

Whenever, in the opinion of the President, it is necessary for the protection of animals, including poultry, in the United States against communicable diseases, he may, by proclamation, suspend the importation of all or any class of animals or poultry for a limited time, and may change, modify, revoke, or renew such proclamation, as the public good may require. During the time of such suspension the importation of any such animals or poultry shall be unlawful.

§ 567. Importation of diseased or exposed animals and poultry prohibited

No person shall import cattle, sheep, other ruminants, swine, and poultry, which are diseased or infected with any disease, or which have been exposed to such infection within sixty days next before their exportation. However, the Secretary of Agriculture may by regulations permit the admission from Mexico into the State of Texas of cattle which have been infested with or exposed to ticks upon being freed therefrom.

§ 568. Importation prohibited except at quarantine stations

No person shall import cattle, sheep, other ruminants, swine, and poultry except at ports designated as quarantine stations by the Secretary of Agriculture with the approval of the Secretary of the Treasury.

If any animals and poultry subject to quarantine are brought into any port of the United States where no quarantine station is established, the collector of such port shall require such animals and poultry to be conveyed to the nearest quarantine station by the vessel on which they are imported or are found, at the expense of the owner.

§ 569. Quarantine of imported animals and poultry

The Secretary of Agriculture may, at the expense of the owner, place and retain in quarantine all cattle, sheep, other ruminants, swine, and poultry imported into the United States, at ports desig-

nated by him for such purpose, and under such conditions as he by regulation prescribes, respectively, for the several classes of animals and poultry above described.

For the purpose of such quarantine, the Secretary may purchase, construct, or rent such lands, buildings, animals, tools, fixtures, and appurtenances as may be necessary, and he may appoint such veterinary surgeons, inspectors, officers, and employees as he deems necessary to maintain such quarantine and provide for the execution of the other provisions of sections 565 (c), 566-570, and 573 (e) of this title.

§ 570. Inspection and disposition of imported animals and poultry

(a) The Secretary of Agriculture shall cause careful inspection to be made of all imported cattle, sheep, other ruminants, swine, and poultry, to ascertain whether such animals and poultry are infected with communicable diseases or have been exposed to infection so as to be dangerous to other animals and poultry. Such animals and poultry shall then be either placed in quarantine or dealt with according to the Secretary's regulations.

All food, litter, manure, clothing, utensils, and other appliances that have been so related to such animals and poultry on board ship as to be judged liable to convey infection shall be dealt with according to the Secretary's regulations.

(b) The Secretary of Agriculture may cause to be slaughtered such of the animals and poultry named in subsection (a) of this section as may be, under his regulations, adjudged to be infected with any communicable disease, or to have been exposed to infection so as to be dangerous to other animals and poultry. The value of animals and poultry slaughtered as being exposed to infection but not infected may be ascertained by agreement of the Secretary and the owners thereof if practicable; otherwise, by the appraisal by two persons familiar with the character and value of such property, appointed by the Secretary, whose decision, if they agree, shall be final; otherwise, the Secretary of Agriculture shall decide between them, and his decision shall be final. The amount of the value thus ascertained shall be paid to the owner thereof out of money in the Treasury appropriated for the use of the Bureau of Animal Industry or for the use of such other bureau or agency, or of any officer, of the Department of Agriculture, to which or to whom the Secretary may delegate the functions heretofore or hereafter exercised by him through the Bureau of Animal Industry; but no payment shall be made for

any animals or poultry imported in violation of the provisions of sections 566–570 or 573 (e) of this title.

§ 571. Disease control in District of Columbia

Whenever any communicable disease affecting domestic animals or poultry, is brought into or breaks out in the District of Columbia, the Commissioners of the District of Columbia shall take measures to suppress the disease promptly and to prevent it from spreading. For this purpose the Commissioners may (1) require that any premises or farms where such disease exists, or has existed, be put in quarantine; (2) order that all or any animals and poultry coming into the District be detained at any place for the purpose of inspection and examination; (3) prescribe regulations for and require the destruction of animals or poultry affected with communicable disease, and for the proper disposition of their hides and carcasses; and (4) prescribe regulations for disinfection, and such other regulations as they may deem necessary to prevent infection or contagion being communicated. The Commissioners shall report to the Secretary of Agriculture any actions taken under this section.

§ 572. Inspection by Department as precluding other inspections and fees

Whenever the Secretary of Agriculture, or any inspector or assistant inspector of the Department of Agriculture designated by the Secretary for such purpose, issues a certificate showing that such officer has inspected any cattle or other livestock or poultry which are about to be shipped, driven, or transported from one locality to another as stated in section 558 of this title, and has found them free from any communicable disease, such animals or poultry, so inspected and certified, may be shipped, driven, or transported from such place into and through any State or Territory or the District of Columbia, or they may be exported from the United States, without further inspection or the exaction of fees of any kind, except such as may at any time be ordered or exacted by the Secretary of Agriculture. For the purposes of such inspection, all such animals and poultry shall at all times be under the control and supervision of the Secretary of Agriculture.

§ 573. Penalties

(a) Whoever knowingly violates section 551, 558, or 572 of this title or the orders or regulations made in pursuance thereof shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(b) Whoever violates section 561 of this title shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(c) *The Secretary of Agriculture shall give notice of the existence of contagion in any infected locality by notice, in writing, to the proper officials or agents of any railroad, steamboat, or other transportation company doing business in or through such locality, and by publication in such newspapers as he may select. Whoever, being a person operating any such railroad, or master or owner of any boat or vessel, or owner or custodian of or person having control over such cattle or other livestock or poultry within such infected district, knowingly violates section 562 of this title shall be fined not more than \$5,000 or imprisoned not more than one year, or both.*

(d) *Whoever violates section 565 (d) (e) of this title shall be fined not more than \$10,000 or imprisoned not more than one year, or both.*

(e) *Whoever knowingly violates section 567 of this title shall be fined not more than \$5,000 or imprisoned not more than three years. Any vessel or vehicle used in such unlawful importation within the knowledge of the master or owner of such vessel or vehicle that such importation is diseased or has been exposed to infection as described in section 567 of this title, shall be forfeited to the United States.*

§ 574. Prosecution of violations; venue

The several United States attorneys shall prosecute all violations of this chapter which are brought to their notice by any person making complaint under oath, in the United States district court or Territorial court held within the district in which the violation has been committed.

CHAPTER 57—SERUMS AND ANALOGOUS PRODUCTS

Sec.

611. *Preparation and sale of serum, etc.*

612. *Licensing and inspection of establishments.*

613. *Regulations for preparation and sale.*

614. *Importation and regulated and prohibited.*

615. *Permits for and inspection of imports.*

616. *Revocation or suspension of licenses or permits.*

617. *Penalties.*

§ 611. Preparation and sale of serum, etc.

No person shall prepare, sell, barter, or exchange in the District of Columbia, in the Territories, or in any place under the jurisdiction of the United States, or ship or deliver for shipment from one State or Territory or the District of Columbia to any other State or Territory or the District of Columbia—

(1) *any worthless, contaminated, dangerous, or harmful virus, serum, toxin, or analogous product intended for use in the treatment of domestic animals; or*

(2) *any virus, serum, toxin, or analogous product manufactured within the United States and intended for use in the treatment of domestic animals, unless and until such product has been prepared, under and in compliance with regulations prescribed by the Secretary of Agriculture, at an establishment holding an unsuspended and unrevoked license issued by the Secretary under this chapter.*

§ 612. Licensing and inspection of establishments

(a) *The Secretary of Agriculture may issue, suspend, and revoke licenses for the maintenance of establishments for the preparation of viruses, serums, toxins, and analogous products, for use in the treatment of domestic animals, intended for sale, barter, exchange, or shipment as specified in section 611 of this title.*

(b) *All licenses issued to establishments under this chapter shall be issued on condition that the licensee shall permit the inspection of such establishments and of such products and their preparation. Any officer, agent, or employee of the Department of Agriculture duly authorized by the Secretary for the purpose may enter and inspect any establishment licensed under this chapter at any hour of the day or night.*

§ 613. Regulations for preparation and sale

The Secretary of Agriculture may make and promulgate from time to time such rules and regulations as may be necessary to prevent the preparation, sale, barter, exchange, or shipment as specified in section 611 of this title of any worthless, contaminated, dangerous, or harmful virus, serum, toxin, or analogous product for use in the treatment of domestic animals.

§ 614. Importation regulated and prohibited

No person shall import into the United States, without a permit from the Secretary of Agriculture, any virus, serum, toxin, or analogous product for use in the treatment of domestic animals, and no person shall import into the United States any worthless, contaminated, dangerous, or harmful virus, serum, toxin, or analogous product for use in the treatment of domestic animals.

§ 615. Permits for and inspection of imports

(a) *The Secretary of Agriculture may issue permits for the importation into the United States of viruses, serums, toxins, and analogous products, for use in the treatment of domestic animals, which are not worthless, contaminated, dangerous, or harmful.*

(b) *The Secretary may cause to be examined and inspected all viruses, serums, toxins, and analogous products, for use in the treat-*

ment of domestic animals, which are being imported or offered for importation into the United States, to determine whether such products are worthless, contaminated, dangerous, or harmful. If it appears that any such product is worthless, contaminated, dangerous, or harmful, such product shall be denied entry and shall be destroyed or returned at the expense of the owner or importer.

§ 616. Revocation or suspension of licenses or permits

The Secretary of Agriculture may suspend or revoke any license or permit issued under this chapter, after opportunity for hearing has been granted the licensee or importer, when the Secretary is satisfied that such license or permit is being used to facilitate or effect the preparation, sale, barter, exchange, or shipment as specified in section 611 of this title, or the importation into the United States, of any worthless, contaminated, dangerous, or harmful virus, serum, toxin, or analogous product for use in the treatment of domestic animals.

§ 617. Penalties

Whoever violates any of the provisions of this chapter shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

PART III.—NARCOTICS

Chapter	Sec.
91. Administration	711
93. Narcotics Import and Export.....	761
95. Domestic Opium Poppy Production Control.....	811

CHAPTER 91—ADMINISTRATION

Sec.
711. Administration of Part III; delegation of functions.
712. Departmental cooperation in discharge of international obligations.
713. Cooperation with States in suppression of abuse.
714. Payments for information.

§ 711. Administration of Part III; delegation of functions

Except as otherwise provided by law, the administration and enforcement of this part are vested in the Secretary of the Treasury. Such Secretary's functions under this part shall be performed by him or, subject to his direction and control, by such officers, agencies and bureaus of the Department of the Treasury as he designates.

§ 712. Departmental cooperation in discharge of international obligations

The Secretary of the Treasury shall cooperate with the Secretary of State in the discharge of the international obligations of the United States concerning the traffic in narcotic drugs.

§ 713. Cooperation with States in suppression of abuse

(a) *The Secretary of the Treasury shall cooperate with the several States in the suppression of the abuse of narcotic drugs in their respective jurisdictions, and to that end he may:*

(1) *Cooperate in the drafting of such legislation as may be needed to effect the end named; and*

(2) *Arrange for the exchange of information concerning the use and abuse of narcotic drugs in said States and for cooperation in the institution and prosecution of cases in the courts of the United States and before the licensing boards and courts of the several States.*

(b) *The Secretary of the Treasury may prescribe such regulations as may be necessary to carry out the purposes of this section.*

§ 714. Payments for information concerning violations of laws

The Secretary of the Treasury may pay to any person, from funds now or hereafter appropriated for the enforcement of the narcotic laws of the United States, for information concerning a violation of any narcotic law of the United States, resulting in a seizure of contraband narcotics, such sum or sums of money as he may deem appropriate, without reference to any moieties or rewards to which such person may otherwise be entitled by law. All payments under authority of this section to any informer in any foreign country shall be made only through an accredited consul or vice consul of the United States stationed in such country, and every such payment shall be supported by a voucher with an accompanying certificate of such consul or vice consul that the payment of the amount stated on the voucher has been made to the informer named, and at the place and time specified on such voucher.

CHAPTER 93—NARCOTICS IMPORT AND EXPORT

Sec.

761. *Definitions.*

762. *Rules and regulations.*

763. *Importation; exceptions and restrictions; forfeitures.*

764. *Import for purpose of transportation to another country; transfer between vessels.*

765. *Penalty for unlawful import, receipt, transportation or sale; subsequent offenses; procedure; evidence; liability of masters and persons in charge.*

766. *Presumption and burden of proof as to importation of smoking opium.*

767. *Exportation; exception; laws of foreign governments.*

768. *Penalty for unlawful export.*

769. *Penalty for having in possession or control on board United States vessel.*

770. *Penalty for possession, receipt, or concealment of smoking opium; evidence; liability of masters and persons in charge.*

771. *Share of fine to informer.*

772. *Short title.*

§ 761. *Definitions*

As used in this chapter, unless the context requires a different meaning—

(a) *“narcotic drug” shall have the same meaning ascribed to the term “narcotic drugs” as used in the Internal Revenue Code;*

(b) *“United States”, when used in a geographical sense, includes the several States and Territories, and the District of Columbia;*

(c) *“Secretary” means the Secretary of the Treasury;*

(d) *“person” means an individual, partnership, corporation or association.*

§ 762. *Rules and regulations*

The Secretary shall prescribe and publish all proper rules and regulations to carry into effect the authority vested in him by this chapter.

§ 763. *Importation; exceptions and restrictions; forfeitures*

(a) *No narcotic drug may be imported or brought into the United States or any territory under its control or jurisdiction, except that, under such regulations as the Secretary shall prescribe—*

(1) *Such amounts of crude opium and coca leaves as the Secretary finds to be necessary to provide for medical and scientific uses may be so imported or brought in; but no crude opium may be imported or brought in for the purpose of manufacturing heroin, and the Secretary may limit further or prohibit entirely the importation or bringing in of crude opium, to the extent that he finds that the medical and scientific needs of the United States for opium or opium products are being, or can be, supplied by opium poppies produced in accordance with chapter 95 of this title; and*

(2) *Amounts of coca leaves in addition to the amount permitted under paragraph (1) of this subsection may be imported or brought in; but after the entry of such additional amounts into the United States or any territory under its control or jurisdiction, all cocaine, ecgonine, and all salts, derivatives, and preparations from which cocaine or ecgonine may be synthesized or made, contained therein, shall be destroyed under the supervision of the Secretary or his authorized representative.*

(b) *All narcotic drugs imported under subsection (a) of this section shall be subject to the duties which are now or may hereafter be imposed upon such drugs when imported.*

(c) *Any narcotic drug imported or brought into the United States or any territory under its control or jurisdiction, contrary to law, shall—*

(1) *If smoking opium or opium prepared for smoking, be seized and summarily forfeited to the United States Government without the necessity of instituting forfeiture proceedings of any character; or*

(2) *If any other narcotic drug be seized and forfeited to the United States Government, without regard to its value, in the manner provided by sections 1607 and 1608 of Title 19, or the provisions of law hereafter enacted which are amendatory of, or in substitution for, such sections.*

(d) *Any narcotic drug which is forfeited in a proceeding for condemnation or not claimed under sections 1607 and 1608 of Title 19, or which is summarily forfeited as provided in subsection (c) of this section, shall be placed in the custody of the Secretary and in his discretion be destroyed or delivered to some agency of the United States Government for use for medical or scientific purposes.*

§ 764. *Import for purpose of transportation to another country; transfer between vessels*

No smoking opium or opium prepared for smoking shall be admitted into the United States or into any territory under its control or jurisdiction for transportation to another country, or be transferred or transshipped from one vessel to another vessel within any waters of the United States for immediate exportation or for any other purpose; and except with the approval of the Secretary, no other narcotic drug may be so admitted, transferred, or transshipped.

§ 765. *Penalty for unlawful import, receipt, transportation or sale; subsequent offenses; procedure; evidence; liability of masters and persons in charge*

(a) *Whoever fraudulently or knowingly imports or brings any narcotic drug into the United States or any territory under its control or jurisdiction, contrary to law, or receives, conceals, buys, sells, or in any manner facilitates the transportation, concealment, or sale of any such narcotic drug after being imported or brought in, knowing the same to have been imported contrary to law, or conspires to commit any of such acts in violation of the laws of the United States, shall be fined not more than \$2,000 and imprisoned not less than two or more than five years. For a second offense, the offender shall be fined not more than \$2,000 and imprisoned not less than five or more than ten years. For a third or subsequent offense, the offender shall be fined*

not more than \$2,000 and imprisoned not less than ten or more than twenty years. Upon conviction for a second or subsequent offense, the imposition or execution of sentence shall not be suspended and probation shall not be granted. For the purpose of this subsection, an offender shall be considered a second or subsequent offender, as the case may be, if he previously has been convicted of any offense the penalty for which is provided in this subsection or in section 7237 (a) (b) (1) of the Internal Revenue Code, or if he previously has been convicted of any offense the penalty for which was provided in section 9, chapter 1, of the Act of December 17, 1914 (38 Stat. 789), as amended; section 1, chapter 202 of the Act of May 26, 1922 (42 Stat. 596), as amended; section 12, chapter 553, of the Act of August 2, 1937 (50 Stat. 556), as amended; or section 7237 (a) of the Internal Revenue Code, as amended. After conviction, but prior to pronouncement of sentence, the court shall be advised by the United States attorney whether the conviction is the offender's first or a subsequent offense. If it is not a first offense, the United States attorney shall file an information setting forth the prior convictions. The offender shall have the opportunity in open court to affirm or deny that he is identical with the person previously convicted. If he denies the identity, sentence shall be postponed for such time as to permit a trial before a jury on the sole issue of the offender's identity with the person previously convicted. If the offender is found by the jury to be the person previously convicted, or if he acknowledges that he is such person, he shall be sentenced as prescribed in this subsection.

Whenever on trial for a violation of this subsection the defendant is shown to have or to have had possession of the narcotic drug, such possession shall be deemed sufficient evidence to authorize conviction unless the defendant explains the possession to the satisfaction of the jury.

(b) No master of any vessel or other water craft, or person in charge of a railroad car or other vehicle, shall be liable under subsection (a) of this section if he satisfies the jury that he had no knowledge of and used due diligence to prevent the presence of the narcotic drug in or on such vessel, water craft, railroad car, or other vehicle; but the narcotic drug shall be seized, forfeited, and disposed of as provided in subsections (c) and (d) of section 763 of this title.

§ 766. Presumption and burden of proof as to importation of smoking opium

All smoking opium or opium prepared for smoking found within the United States shall be presumed to have been imported contrary to law, and the burden of proof shall be on the claimant or the accused to rebut such presumption.

§ 767. Exportation; exceptions; laws of foreign governments

(a) No person subject to the jurisdiction of the United States Government shall export or cause to be exported from the United States, or from territory under its control or jurisdiction, any narcotic drug to any other country except to a country which has ratified and become a party to the convention and final protocol between the United States Government and other powers for the suppression of the abuses of opium and other drugs, commonly known as the International Opium Convention of 1912, and then only if—

(1) such country has instituted and maintains, in conformity with that convention, a system, which the Secretary deems adequate, of permits or licenses for the control of imports of such narcotic drugs;

(2) the narcotic drug is consigned to an authorized permittee; and

(3) there is furnished to the Secretary proof deemed adequate by him that the narcotic drug is to be applied exclusively to medical and scientific uses within the country to which exported, that it will not be reexported from such country, and that there is an actual shortage of and a demand for the narcotic drug for medical and scientific uses within such country.

(b) The exceptions contained in subsection (a) of this section shall not apply to smoking opium or opium prepared for smoking, the exportation of which is absolutely prohibited.

(c) The Secretary of State shall request all foreign governments to communicate through the diplomatic channels copies of the laws and regulations promulgated in their respective countries which prohibit or regulate the importation and shipment in transit of any narcotic drug and, when received, shall advise the Secretary thereof.

§ 768. Penalty for unlawful export

Any person who exports, or conspires to export, any narcotic drugs in violation of section 767 of this title shall be fined not more than \$5,000 or imprisoned not more than two years, or both.

§ 769. Penalty for having in possession or control on board United States vessel

(a) *Any person who brings on board, or has in his possession or control on board, any vessel of the United States, while engaged on a foreign voyage, any narcotic drug not constituting a part of the cargo entered in the manifest or part of the ship stores, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.*

(b) *As used in subsection (a) of this section, "narcotic drug" means any narcotic drug defined by section 761 of this title, or "marihuana" as defined in the Internal Revenue Code.*

§ 770. Penalty for possession, receipt, or concealment of smoking opium; evidence; liability of masters and persons in charge

(a) *Any person, subject to the jurisdiction of the United States, who, either as principal or as accessory, receives or has in his possession, or conceals on board of or transports on any foreign or domestic vessel or other watercraft or railroad car or other vehicle destined to or bound from the United States or any possession thereof, any smoking opium or opium prepared for smoking, or who, having knowledge of the presence in or on any such vessel, watercraft, or vehicle of such article, does not report the same to the principal officer thereof, shall be punished as provided in section 765 of this title. Whenever on trial for violation of this section the defendant is shown to have or to have had possession of such opium, such possession shall be deemed sufficient evidence to authorize conviction, unless the defendant shall explain the possession to the satisfaction of the jury.*

(b) *No master of a vessel or other water craft or person in charge of a railroad car or other vehicle shall be liable under this section if he satisfies the jury that he had no knowledge and used due diligence to prevent the presence of such article in or on such vessel, water craft, car, or other vehicle; but any such article shall be forfeited and destroyed.*

§ 771. Share of fine to informer

One-half of any fine recovered from any person or persons convicted of an offense under this chapter may be paid to the person or persons giving information leading to such recovery, and one-half of any bail forfeited and collected in any proceedings brought under this chapter may be paid to the person or persons giving the information which led to the institution of such proceedings, if so directed by the court exercising jurisdiction in the case. No payment for giving information shall be made to any officer or employee of the United States.

§ 772. *Short title*

This chapter may be cited as the “Narcotic Drugs Import and Export Act”.

CHAPTER 95—DOMESTIC OPIUM POPPY PRODUCTION CONTROL

Sec.

811. *Declaration of policy; assistance from Federal agencies.*

812. *Definitions.*

813. *Rules and regulations.*

814. *Licenses; qualifications; limitations; revocation and renewal.*

815. *Distribution by Federal Government; personnel of Treasury Department excepted from prohibitions.*

816. *Production, purchase, manufacture, sale or transportation by unlicensed persons.*

817. *Seizure and forfeiture of opium poppies illegally possessed; disposition.*

818. *Penalties.*

819. *Pleading, presumptions, and burden of proof.*

820. *Application to, and of, other laws.*

821. *Territorial application.*

822. *Short title.*

§ 811. *Declaration of policy; assistance from Federal agencies*

(a) *It is the purpose of this chapter to—*

(1) *discharge more effectively the obligations of the United States under the International Opium Convention of 1912, and the Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs of 1931, as amended by the Protocol signed at Lake Success, New York, on December 11, 1946;*

(2) *promote the public health and the general welfare;*

(3) *regulate interstate and foreign commerce in opium poppies; and*

(4) *safeguard the revenue derived from taxation of opium and opium products.*

(b) *Other departments, bureaus, and independent establishments of the Government, when requested by the Secretary of the Treasury, shall furnish such assistance, including technical advice, as will aid in carrying out the purposes of this chapter.*

§ 812. *Definitions*

As used in this chapter—

1. *“produce” or “production” includes the planting, cultivation, growth, harvesting, and any other activity which facilitates the growth of the opium poppy;*

2. *“opium poppy” includes the plant *Papaver somniferum*, any other plant which is the source of opium or opium products, and any part of any such plant;*

3. *“opium” includes the inspissated juice of the opium poppy, in crude or refined form;*

4. “*opium products*” includes opium and all substances obtainable from opium or the opium poppy, except the seed thereof;

5. “*Secretary*” means the Secretary of the Treasury;

6. “*person*” means an individual, company, partnership, corporation, or association.

§ 813. *Rules and regulations*

The Secretary may prescribe and publish all necessary rules and regulations for carrying out the provisions of this chapter.

§ 814. *Licenses; qualifications; limitations; revocation and renewal*

(a) *Any person who desires to procure a license to produce the opium poppy, or to manufacture opium or opium products, shall make application therefor in such manner and form as the Secretary shall by rules and regulations prescribe.*

(b) *A license to produce the opium poppy shall be issued only to a person who, in the opinion of the Secretary, is determined to be a person—*

(1) *of good moral character;*

(2) *of suitable financial standing and farming experience;*

(3) *who owns or controls suitable farmland to be used as a production area, in such locality, as will, in the judgment of the Secretary, render reasonably probable the efficient and diligent performance of the operation of producing the opium poppy in appropriate number and quality; and*

(4) *who complies with such additional requirements as the Secretary shall deem and prescribe as reasonably necessary for the controlled production and distribution of the opium poppy.*

Each such license shall be nontransferable and shall be valid only to the extent of the production area and maximum weight of opium poppy yield specified in the license, shall state the locality of the production area, and shall be effective for a period of one year from the date of issue and may be renewed, in the discretion of the Secretary, for a like period.

(c) *A license to manufacture opium or opium products shall be issued only to a person who, in the opinion of the Secretary, is determined to be a person—*

(1) *of good moral character;*

(2) *who possesses a method and facilities, deemed satisfactory to the Secretary, for the efficient and economical extraction of opium or opium products;*

(3) *who has such experience in manufacturing and marketing other medicinal drugs as to render reasonably probable the orderly and lawful distribution of opium or opium products of suitable quality to supply medical and scientific needs; and*

(4) *who complies with such additional requirements as the Secretary shall deem and prescribe as reasonably necessary for the controlled production, manufacture, and distribution of the opium poppy, opium, or opium products.*

Such license shall be nontransferable, shall state the maximum quantity of opium poppies purchasable or obtainable thereunder, and shall be effective for a period of one year from the date of issue and may be renewed, in the discretion of the Secretary, for a like period.

(d) *All licenses issued under this section shall be limited to such number, localities, and areas as the Secretary shall determine to be appropriate to supply the medical and scientific needs of the United States for opium or opium products, with due regard to provision for reasonable reserves. Nothing contained in this section shall be construed as requiring the Secretary to issue or renew any license or licenses under the provisions hereof.*

(e) *The Secretary may revoke or refuse to renew any license issued under this section, if, after due notice and opportunity for hearing, he finds such action to be in the public interest, or finds that the licensee has failed to maintain the requisite qualifications.*

§ 815. Distribution by Federal Government; personnel of Treasury Department excepted from prohibitions

(a) *The Secretary, whenever in his opinion the medical and scientific needs of the Nation will not be met by importation or licensed production, shall provide for the acquisition of opium poppy seed, for the production of the opium poppy, for the manufacture of opium or opium products, and for the use, sale, giving away, or other proper distribution of opium poppy seed, opium poppies, opium, or opium products by the United States Government either directly or through and with the approval of the head of any agency of the Government, including any Government-owned or controlled corporation.*

(b) *None of the prohibitions contained in this chapter shall apply to any officer or employee of the United States Treasury Department, who in the performance of his official duties and within the scope of his authority engages in any of the businesses or activities herein described, nor to any other officer or employee of the United States Government, who in the performance of his official duties, within the*

scope of his authority and with the approval of the Secretary, engages in any of the businesses or activities herein described.

§ 816. *Production, purchase, manufacture, sale or transportation by unlicensed persons*

(a) No person who is not the holder of a proper license authorizing him to produce the opium poppy, duly issued to him by the Secretary, shall produce or attempt to produce the opium poppy, or permit the production of the opium poppy in or upon any place owned, occupied, used, or controlled by him.

(b) Except as otherwise provided in subsection (e) of this section, no person shall—

(1) purchase or in any other manner obtain the opium poppy, unless he is the holder of a proper license to produce the opium poppy or to manufacture opium or opium products, duly issued to him by the Secretary; or

(2) sell, transfer, convey any interest in, or give away the opium poppy to any person not so licensed.

(c) No person who is not the holder of a proper license authorizing him to manufacture opium or opium products, duly issued to him by the Secretary, shall manufacture, compound, or extract opium or opium products from the opium poppy.

(d) No person who is not the holder of a proper license authorizing him to produce the opium poppy or to manufacture opium or opium products, duly issued to him by the Secretary, shall send, ship, carry, transport, or deliver any opium poppies within any State, Territory, the District of Columbia, the Canal Zone, or insular possession of the United States, or from any State, Territory, the District of Columbia, the Canal Zone, or insular possession of the United States, into any other State, Territory, the District of Columbia, the Canal Zone, or insular possession of the United States. Nothing contained in this subsection shall apply to any common carrier engaged in transporting opium poppies pursuant to an agreement with a person duly licensed under section 814 of this title as a producer of the opium poppy, or as a manufacturer of opium or opium products, or to any employee of any person so licensed while acting within the scope of his employment.

(e) No person shall sell, transfer, convey any interest in, or give away, except to a person duly licensed under section 814 of this title, opium poppy seed for the purpose of opium poppy production, nor shall any unlicensed person purchase or otherwise obtain such seed for such purpose; but the seed obtained from opium poppies produced

by licensed producers may be sold or transferred by such producers to unlicensed persons, and may thereafter be resold or transferred, for ultimate consumption as a spice seed or for the manufacture of oil.

§ 817. Seizure and forfeiture of opium poppies illegally possessed; disposition

(a) Any opium poppies produced or otherwise obtained in violation of any of the provisions of this chapter shall be seized by, and forfeited to, the United States.

(b) The failure, upon demand by the Secretary, or his duly authorized agent, of the person in occupancy or control of land or premises upon which opium poppies are being produced or stored to produce an appropriate license, or proof that he is the holder thereof, shall constitute authority for the seizure and forfeiture of such opium poppies.

(c) The Secretary, or his duly authorized agent, shall have authority to enter upon any land (but not a dwelling house, unless pursuant to a search warrant issued according to law) where opium poppies are being produced or stored, for the purposes of enforcing the provisions of this chapter.

(d) Any opium poppies, the owner or owners of which are unknown, seized by or coming into the possession of the United States in the enforcement of this chapter shall be forfeited to the United States.

(e) The Secretary shall destroy any opium poppies seized by, and forfeited to, the United States under this section, or deliver them for medical or scientific purposes to any department, bureau, or other agency of the United States Government, upon proper application therefor under such regulations as he may prescribe.

§ 818. Penalties

(a) Any person who violates any provision of this chapter shall be fined not more than \$2,000 or imprisoned not more than five years, or both.

(b) Any person who willfully makes, aids, or assists in the making of, or procures, counsels, or advises in the preparation or presentation of, a false or fraudulent statement in any application for a license under the provisions of section 814 of this title shall (whether or not such false or fraudulent statement is made by or with the knowledge or consent of the person authorized to present the application) be fined not more than \$2,000 or imprisoned not more than one year, or both.

§ 819. Pleading, presumptions, and burden of proof

It shall not be necessary to negative any exemptions set forth in this chapter in any complaint, information, indictment, or other writ or

proceeding laid or brought under this chapter and the burden of proof of any such exemption shall be upon the defendant. In the absence of the production of an appropriate license by the defendant, he shall be presumed not to have been duly licensed in accordance with section 814 of this title and the burden of proof shall be on the defendant to rebut such presumption.

§ 820. Application to, and of, other laws

Nothing in this chapter shall be construed to repeal any provisions of the Internal Revenue Code, but nothing in that Code shall apply to the production, sale, or transfer of opium poppies, when such opium poppies are lawfully produced, sold, or transferred by persons duly and properly licensed under section 814 of this title in conformity with the regulations issued pursuant to such section.

§ 821. Territorial application

The provisions of this chapter shall apply to the several States, the District of Columbia, the Territory of Alaska, the Territory of Hawaii, the Canal Zone, Puerto Rico, and the other insular possessions of the United States.

§ 822. Short title

This chapter may be cited as the "Opium Poppy Control Act".

Sec. 2. Section 1 of the Act approved May 29, 1884 (ch. 60, 23 Stat. 31; 7 U. S. C., sec. 391), as amended, is amended to read as follows:

"Sec. 1. There shall be in the Department of Agriculture a Bureau of Animal Industry. The Secretary of Agriculture is authorized to appoint a chief thereof, who shall be a competent veterinary surgeon. The functions of the Bureau of Animal Industry shall be vested in the Secretary of Agriculture or, subject to his direction and control, in such officers and agencies of the Department of Agriculture as he may designate. Such functions shall include the duty to investigate and report upon the condition of the domestic animals and poultry of the United States, their protection and use, and also to inquire into and report the causes of communicable diseases among them, and the means for the prevention and cure of the same, and to collect such information on these subjects as shall be valuable to the agricultural and commercial interests of the country."

Sec. 3. The first paragraph of section 1 of the Act approved March 28, 1928 (ch. 266, 45 Stat. 374; 31 U. S. C., sec. 529a), as amended, is amended (1) by striking out "Division of Disbursement", as now appearing in such paragraph, and, in lieu thereof, inserting "Fiscal Service"; and (2) by striking out, after the first semicolon, "the Act

entitled 'An Act to amend an Act entitled "An Act to prohibit the importation and use of opium for other than medicinal purposes", approved February 9, 1909', as amended, known as the 'Narcotic Drugs Import and Export Act' ", and inserting in lieu thereof "chapter 93 of Title 21, United States Code".

Sec. 4. (a) Subsection (a) of section 302 of the Act approved July 1, 1944 (chapter 373, Title III, 58 Stat. 692; 42 U. S. C., sec. 242) is amended by striking out the reference "the Narcotic Drugs Import and Export Act, as amended", appearing at the end of such subsection, and inserting in lieu thereof "chapter 93 of Title 21, United States Code".

(b) Subsection (d) of section 7 of the Act approved August 9, 1939 (chapter 618, 53 Stat. 1293; 49 U. S. C., sec. 787 (d)), as amended, is amended by striking out the reference "the Narcotic Drugs Import and Export Act," appearing in such subsection.

Sec. 5. The opening clause of subsection (f) of section 15 of the Federal Trade Commission Act (15 U. S. C., sec. 55 (f)) as amended, which subsection was added to such section 15 by section 4 (b) of the Act approved March 16, 1950 (chapter 61, 64 Stat. 21), is amended by striking out "and section 407 of the Federal Food, Drug, and Cosmetic Act, as amended".

Sec. 6. If any part of Title 21, United States Code, as set out in section 1 of this Act, shall be held invalid, the remainder of such title shall not be affected thereby.

Sec. 7. No inference of a legislative construction is to be drawn by reason of the chapter in Title 21, United States Code, as set out in section 1 of this Act, in which any section is placed, nor by reason of the catchlines used in such title.

Sec. 8. All orders, rules, and regulations in effect on the effective date of this Act, which were adopted under the authority of the Acts of Congress from which Title 21, United States Code, as set out in section 1 of this Act, is derived, shall continue in effect until modified, amended, superseded, or repealed under the authority of such title.

Sec. 9. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of Title 21, United States Code, as set out in section 1 of this Act.

Sec. 10. This Act shall take effect on January 1, 1955, except that, with respect to pesticide chemicals for which tolerances or exemptions have not been established under section 408 of the Federal Food, Drug, and Cosmetic Act as in effect prior to the enactment of this Act or

under section 56 of the Federal Food, Drug, and Cosmetic Act as enacted by section 1 of this Act, the provisions of clause (2) of section 52 (a) of title 21, United States Code, set out in section 1 of this Act which relate to pesticide chemicals in or on raw agricultural commodities shall not be effective—

(1) for the period of one year following July 22, 1954; or

(2) for such additional period following such period of one year, but not extending beyond two years after July 22, 1954, as the Secretary of Health, Education, and Welfare may prescribe on the basis of a finding that conditions exist which necessitate the prescribing of such additional period.

Sec. 11. The sections or parts thereof of the Statutes at Large enumerated in the following schedule are hereby repealed. Any rights or liabilities now existing under such sections or parts thereof shall not be affected by this repeal.

Statutes at Large						U. S. Code	
Date	Chapter	Title	Section	Volume	Page	Title	Section
1884—May 29	60		2, 3, 4, 5, 6, 7, 8, 9	23	31-33	21	112, 113, 114, 117-120, 130
Do	60		10	23	33	{ 7 21	391 note 112 note 191-193
1887—Feb. 23	210		1, 2, 3	24	409	21	1 note, 71 note
1890—Aug. 30	839		1, 2, 3	26	414, 415	21	18, 101-105
Do	839		4, 6, 7, 8, 9, 10	26	415-417	21	41-46, 47-50
1897—Mar. 2	358		1, 2, 3, 4, 5, 6, 7, 8, 9, 10	29	604-607	21	
1902—May 9	784		1	32	193	21	25
July 1	1357		1, 2	32	632	21	16, 17
1903—Feb. 2	349		1, 2, 3	32	791, 792	21	111, 112, 113, 120-122
1905—Mar. 3	1496		1, 2, 3, 4, 6	33	1264, 1265	21	123-127
1906—June 30	3913 (part)		7, 8, 9	34	1 679	21	95
1907—Mar. 4	2907 (part)			34	2 1260-1265	21	71-92
1908—May 16	170			35	163	21	41
May 23	192 (part)			35	3 254	21	94a
1909—Feb. 9	4 100		1, 2, 3, 4, 5, 6, 7, 8, 9	35	614	21	171-173, 174, 176-184, 185
1910—May 26	256 (part)			36	5 440	21	131
1913—Mar. 4	145 (part)			37	6 832, 833	21	151-158
1914—June 30	131 (part)			38	7 419	21	128
Do	131 (part)			38	8 420	21	94
1915—Mar. 3	74		1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13.	38	817-822	21	201-215
Mar. 4	144 (part)			38	9 1102	21	24
1917—Aug. 10	52		9	40	275	21	106, 107
1918—Nov. 21	212		3	40	1048, 1049	21	106, 107
1919—July 24	26 (part)			41	10 241	21	96
Do	26 (part)			41	11 271	21	321b
1920—May 31	217 (part)			41	12 699	21	116
Do	217 (part)			41	13 712, 713	21	41-44, 46-50
1923—Mar. 4	262		1, 2, 3	42	1486, 1487	21	61-63
Do	262		14 4			21	64
Do	263			42	1500	21	321a
1926—June 28	700		1, 2	44	774, 775	21	104, 115, 116 note
1927—Jan. 18	39 (part)			44	15 984	21	26
Feb. 15	165		1, 2, 3, 4, 5, 6, 7, 8, 9	44	1101-1103	21	141-149
Mar. 4	489		1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12.	44	1406-1410	15	401-409, 409 note, 410, 411
1928—Feb. 7	30			45	59	{ 7 21	15 391 111-115, 117- 126, 128, 130
May 16	572 (part)			45	17 548	21	26
1929—Feb. 16	22 (part)			45	18 1198	21	26
1930—June 14	488		6, 7, 8	46	587	21	173a, 197, 198
July 3	829			46	850	21	199
1931—Feb. 28	348			46	1460	21	104
1934—June 22	712			48	1204	21	372a
June 26	756		19 2	48	1225	21	95
1935—Aug. 27	739			49	871	21	372a

¹ Only the second full paragraph on this page, of which the first sentence was classified to the United States Code, 1946 ed., as section 95 of title 21 thereof, and the remainder was not classified to such Code.

² Commencing with the paragraph headed "For meat inspection," on page 1260, and continuing on to the bottom of such page, inclusive; all that appears on pages 1261, 1262, 1263 and 1264, including the paragraph which commences on page 1264 and ends on page 1265; and the first full paragraph on page 1265.

³ Only the proviso which commences near the bottom of this page, and ends on page 255 with the word "certified".

⁴ As amended by Acts Jan. 17, 1914, ch. 9, 38 Stat. 275-277; May 26, 1922, ch. 202, §§ 1-4, 42 Stat. 696-698; June 7, 1924, ch. 352, 43 Stat. 657; July 1, 1944, ch. 377, § 8, 58 Stat. 721; Mar. 8, 1946, ch. 81, § 7, 60 Stat. 39; Nov. 2, 1951, ch. 666, §§ 1, 5 (1), 65 Stat. 767, 769; June 27, 1952, ch. 477, § 403 (a) (10), 66 Stat. 279.

⁵ Only the third paragraph under the heading "Miscellaneous" appearing on this page.

⁶ All of the paragraph commencing on page 832, "That from and after July first", and ending on page 833, except the final sentence of such paragraph commencing "That there is hereby appropriated".

⁷ Only the first proviso appearing on this page.

⁸ Only the proviso in the paragraph commencing "Meat inspection, Bureau of Animal Industry" and appearing on this page.

⁹ Only the proviso appearing on this page.

¹⁰ All of the paragraph beginning "Meat inspection, Bureau of Animal Industry" appearing on this page, except the first sentence thereof.

¹¹ All of the fourth full paragraph appearing on this page.

¹² Only the last two provisos in the paragraph which begins on page 698 and ends on page 699, said two provisos appearing on page 699.

¹³ All of the paragraph which begins on page 712 and ends on page 713, except the final sentence of such paragraph.

¹⁴ As added by Act Aug. 27, 1935, ch. 743, 49 Stat. 885.

¹⁵ Only the proviso in the paragraph headed "Meat inspection" appearing on this page.

¹⁶ The amendments made by the Act of Feb. 7, 1928, ch. 30, to section 1 of Act May 29, 1884, ch. 60 (23 Stat. 31; 7 U. S. C., sec. 391), are also repealed, but such repeal shall not be construed as repealing such section 1 of the Act of 1884 (7 U. S. C., sec. 391) which, as amended by another section of this Act, shall remain in full force and effect.

¹⁷ The first proviso appearing on this page.

¹⁸ The proviso in the paragraph headed "Meat inspection" appearing on this page.

¹⁹ Only that part of this section which amends that part of Act June 30, 1906, ch. 3913, 34 Stat. 679 relating to a permanent appropriation for the inspection of cattle, sheep, swine, and goats and the meat and meat food products thereof and expenses incidental to such inspection, including the proviso in subsection (a) and item (5) of subsection (b) of such section 2.

Statutes at Large						U. S. Code	
Date	Chapter	Title	Section	Volume	Page	Title	Section
1938—June 25—	675	-----	All	52	1040-1059	21	301, 321, 321a, 321b, 331-337, 341-346, 346a, 351-357, 361-364, 371, 372, 372a, 373-376, 381, 391, 392, and notes thereunder, and notes preceding 61, 141
June 29—	810	-----	-----	52	1235	21	91
1939—May 2—	107	I	1 (part)	53	20 631	21	376 note
June 25—	242	-----	1, 2, 3	53	853, 854	21	342 note, 343 note, 351 note, 352 note, 361 note, 362 note
1940—June 27—	457	I	101 (part)	54	21 632	21	46a
1941—July 1—	269	II (part)	-----	55	22 478	21	46a
July 11—	289	-----	1, 2	55	534	21	184s, 184a note
Dec. 22—	613	-----	1, 2, 3, 4	55	851, 852	21	331, 352, 356, 356 note
1942—Dec. 11—	720	-----	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17	56	1045-1049	21	188, 188 note, 188a-188n
1943—July 12—	221	II	1 (part)	57	23 500	21	372a
1944—Mar. 2—	77	-----	-----	58	108	21	321c
1944—Sept. 21—	412	I	101 (a)	58	734	21	114a
1945—July 6—	281	-----	1, 2, 3	59	463, 464	21	331, 352, 357
1947—Feb. 28—	8	-----	1, 2, 3, 4	61	7, 8	21	114b, 114b note, 114c, 114d
Mar. 10—	16	-----	1, 2, 3	61	11, 12	21	331, 352, 357
July 30—	356	I	1 (part)	61	24 531, 532	21	97, 97a, 97b, 97c, 97d
1948—Apr. 24—	229	-----	-----	62	198	21	113a
June 5—	423	-----	-----	62	344	21	98
June 16—	477	-----	1, 2	62	458	21	114e, 114f
June 24—	613	-----	1, 2	62	532	21	331, 334
June 25—	646	-----	5	62	986	21	193
1949—June 29—	280	I	101 (part)	63	25 331	-----	-----
July 13—	305	-----	1, 2	63	409, 410	21	352, 357
Oct. 18—	696	-----	1, 2, 3	63	832, 833	21	331
1950—Mar. 16—	61	-----	3, 6	64	20, 22	21	331, 342, 347
1951—Oct. 26—	578	-----	1, 2, 3	65	648, 649	21	347a, 347b
Oct. 30—	637	-----	1, 2	65	693, 694	21	333, 333 note, 353, 353 note
Nov. 2—	666	-----	1	65	767, 768	21	114a, 114a-1
1953—Aug. 5—	334	-----	1, 2	67	389	21	174
Aug. 7—	350	-----	1, 2, 3	67	476, 477	21	352, 357
Aug. 8—	381	-----	-----	67	493, 494	21	331, 334, 374
Do—	394	-----	8	67	506	21	114a
1954—Apr. 15—	143	-----	1, 2	68	54, 55	21	171
July 22—	559	-----	1, 2, 3, 4, 5	68	511	21	341, 371
							321, 342, 342 notes, 346a

²⁰ In the paragraph beginning on page 631 and ending on page 632, only the words reading, "which section is hereby made immediately effective" appearing on page 631.

²¹ Only the proviso in the paragraph headed "Food and Drug Administration," appearing on this page.

²² Only the proviso in the paragraph beginning "Enforcement of Tea Importation Act," appearing on this page.

²³ Only the following words in the second paragraph appearing on this page: "which may hereafter be cited as section 702A of the Federal Food, Drug, and Cosmetic Act".

²⁴ All of the paragraph beginning "Meat inspection," which commences on page 531 and ends on page 532.

²⁵ The two provisos in the last paragraph on this page.

Passed the House of Representatives July 6, 1954.

Attest:

LYLE O. SNADER,

Clerk.

83^d CONGRESS
2^d Session

H. R. 9728

[Report No. 2496]

AN ACT

To revise, codify, and enact into law, title 21
of the United States Code, entitled "Food,
Drugs, and Cosmetics".

July 7 (legislative day, July 2), 1954

Read twice and referred to the Committee on the
Judiciary

August 18 (legislative day, August 5), 1954

Reported with an amendment

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued August 20, 1954
For actions of August 19, 1954
83rd-2nd, No. 162

CONTENTS

Increase allotments.....24	Farm program.....20,28	Prices, support.....16
Appropriations.....1	Foreign aid.....1	REA.....27
Auditing.....9	Forestry.....3,27	Soil conservation.....27
CCC.....9	Investigations.....6	Tariffs.....22
Committees.....10	Labor, farm.....8,17	Textiles.....18
Conservation.....27	Lands, reclamation.....5,15,26	Transportation.....4,14
Dairy products.....23	Law revision.....2	Water compact.....7
Drought relief.....11	Personnel.....12	Water facilities.....21
Education.....19	Postal rates.....12	Wheat.....24
Electrification.....13	Poultry prices.....25	Whitten amendment.....12
Farm prices.....25		

HIGHLIGHTS: Both Houses agreed to conference report on foreign-aid appropriation bill. Senate passed bill to revise food-drug law, and House concurred in amendments. House concurred in Senate amendment to bill permitting long-term forest-land leases. Senate debated Federal pay raise bill. Senate debated Colo. reclamation project. Sens. Johnson (Tex.) and Morse criticized drought-relief administration. Rep. Harrison, Va., criticized reductions in wheat allotments. Rep. Hope inserted summary of farm program bill.

HOUSE

1. **FOREIGN-AID APPROPRIATION BILL, 1955.** Both Houses agreed to the conference report on this bill, H. R. 10051, and acted on amendments which had been reported in disagreement (pp. 14312-22, 14457-60). This bill will now be sent to the President.
2. **LAW REVISION.** Concurred in the Senate amendments to bills to codify and enact into positive law parts of the U. S. Code. The Senate passed these bills as reported, earlier in the day. The bills are H. R. 9728, on food, drugs, and animal-plant diseases, etc.; H. R. 9729, on census; and H. R. 9730, to correct obsolete references. (pp. 14411-3, 14341-65.) These bills will now be sent to the President.
3. **FORESTRY.** Concurred in the Senate amendment to H. R. 1254, to authorize 30-year leases of national-forest and other Federal lands for public purposes (p. 14325). This bill will now be sent to the President.
4. **TRANSPORTATION.** Passed without amendment S. 906, to establish the finality of contracts between the Government and common carriers of passengers and freight, subject to the Interstate Commerce Act (p. 14334).

This bill will now be sent to the President.

5. RECLAMATION. Agreed to a Senate amendment to H. R. 2235, authorizing the Santa Maria project, Calif., with an amendment (p. 14326). The Senate later agreed to the House amendment to the Senate amendment (p. 14454). This bill will now be sent to the President.
 6. INVESTIGATIONS. Agreed to, without amendment, H. Res. 161, authorizing the Agriculture Committee to investigate matters within its jurisdiction outside the U. S. (p. 14324).
 7. WATER COMPACT. Discussed S. 2821, consenting to an interstate compact regarding Missouri Basin waters, but Rep. Saylor objected to its consideration at this session (pp. 14331-2).
 8. FARM LABOR. Discussed S. 2862, to permit immigration of certain shepherders, but Rep. Celler objected to its passage (pp. 14365-7).
 9. CCC AUDIT. Received from the Acting Comptroller General an audit report on CCC for 1953 (H. Doc. 494) (p. 14383). The report was also received in the Senate (p. 14387).
 10. ASC COMMITTEES. Rep. Jones, Mo., criticized the Secretary's position regarding limitation of the terms of committeemen and stated that such a limit should not be continued regarding community committeemen (p. 14380).
- SENATE
11. DROUGHT RELIEF. Sens. Johnson, Tex., and Morse criticized administration of the drought-relief program (p. 14389).
 12. PERSONNEL; POSTAL RATES. Began debate on H. R. 7774, agreeing that the committee amendment (in the nature of a substitute), providing for a 5% pay raise for Federal employees (with a minimum of \$170 a year and a maximum of \$480), would be considered as the original text of the bill and would be subject to amendment on the floor. It is expected that Sen. Knowland will propose an amendment providing for a 3½% pay increase for classified employees, a 5% increase for postal employees, and increases in postal rates. The text of the Knowland amendment (as well as the committee recommendation) is in the Record, and he also inserted a brief explanation and the estimated cost of the group life insurance program, the Whitten amendment modification, the incentive-awards program, repeal of the annual-leave provision, etc. (pp. 14470, 14480-3, 14486-9.)
 13. ELECTRIFICATION. The Public Works Committee reported with amendments S. 2599, to authorize development of Niagara River power (S. Rept. 2501) (p. 14837).
 14. TRANSPORTATION. Agreed to the conference report on H. R. 2236, to establish a metropolitan area transit commission and a Commission on Area Problems for the D. C. area (pp. 14430-4).
 15. RECLAMATION. Began debate on S. 1555, to authorize the upper Colo. River project, and agreed to the committee amendment in the nature of a substitute (pp. 14413-23, 14462-4, 14467-70).
 16. PRICE SUPPORTS. Sen. Aiken inserted a newspaper editorial claiming that

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 10051) making appropriations for Mutual Security for the fiscal year ending June 30, 1955, and for other purposes; that the House receded from its disagreement to the amendment of the Senate numbered 23 to the bill, and concurred therein, and that the House receded from its disagreement to the amendments of the Senate numbered 1, 2, 3, 9, 12, 22, 25, 26, 31, 32, and 33, to the bill, and concurred therein severally with an amendment, in which it requested the concurrence of the Senate.

AMENDMENT TO CERTAIN CODIFICATION STATUTES

Mr. BUTLER. Mr. President, there are on the calendar three bills involving amendments to various codification statutes, namely:

H. R. 9728, to revise, codify, and enact into law title 21 of the United States Code, entitled "food, drugs, and cosmetics"; H. R. 9729, to revise, codify, and enact into law title 13 of the United States Code, entitled "Census"; and H. R. 9730, to amend various statutes and certain titles of the United States Code, for the purpose of correcting obsolete references, and for other purposes.

As the titles indicate, these bills have to do, respectively, with the codifying of title 21, title 13, and correcting certain obsolete references and making certain other technical amendments to various previous codification statutes.

Under title 1, chapter 3 of the United States Code, the work of codification and editions of the code are the responsibility of the House Judiciary Committee, and it is understood that the codifications of title 21 and title 13 have been actively under consideration for a number of years, having late in the session been finally completed. The correction bill is a yearly bill which comes from the same committee for corrections in the existing codes as obsolete references appear.

These bills have been pending on the agenda in the Senate Judiciary Committee for several weeks and were not immediately acted upon because of a study made of them by the able Senator from Nevada [Mr. McCARRAN] who wished to be sure that the codification statute might not be construed to make certain changes in existing substantive law which, of course, is not the purpose of codification. After this examination, the Senator from Nevada was satisfied with the legislation, subject to certain amendments. These amendments have been made. In addition thereto, certain amendments have become necessary by the lapse of time, and I refer particularly to the signing of Public Law 518 relating to pesticide chemicals, which properly belong in the codification of title 21. This amendment was made and, as a result thereof, numerous technical amendments in matters of form had to be made in order to place it in its proper category.

The amendments proposed to these bills have been examined and are agreeable, and I am informed by representatives of the other body that if the bills are passed by the Senate with these amendments, that body will concur promptly in the Senate amendments. In other words, there is no controversy at all over these amendments.

Under the circumstances, Mr. President, and in view of the great amount of work which goes into one of these codification statutes, it is understandable that the House of Representatives is anxious that these bills should not die here at the end of the session.

Mr. President, I have further material in explanation of these bills. Unless some Senator would like to have me read this material, I ask unanimous consent that the remainder of my remarks may be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

I want to explain the amendments, so that my colleagues will understand what is proposed.

In the case of the bill H. R. 9728, which is the codification of title 21, relating to foods, drugs, and cosmetics, there are substantially seven amendments.

The first of these amendments would change clause (1) of subsection (d) of section 41 to read "intended to be rubbed, poured, sprinkled, or sprayed on, or otherwise applied to or introduced into the human body for cleansing, beautifying, promoting attractiveness, or altering the appearance, and." This amendment simply restores the categorical words found in the present statute.

The second amendment proposed to this bill is to amend section 53 (j) to read as follows: "If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the Secretary determines to be and by regulations prescribes as necessary in order fully to inform purchasers as to its value for such uses."

This amendment restores the requirement that the Secretary must make a determination before issuing regulations prescribing labeling changes, and thus avoids the possibility that the new language might be construed to exempt the Secretary from the necessity for holding a hearing on the question before issuing the new regulations.

The third amendment to this bill is to add at the end of subparagraph (6) of subsection (f) of section 131 a new sentence, as follows: "Nothing in this section shall be deemed to waive or deny any right otherwise accorded by the Administrative Procedure Act, and such act shall continue to apply to all activities of the Food and Drug Administration." This amendment is intended to make it clear that reenactment of the procedural provisions in this section does not constitute repeal or waiver of the Administrative Procedure Act or rights accorded thereunder.

The next amendment is, in subsection (a) of section 134, to strike out the word "may", immediately preceding the figure (1), and insert in lieu of such word the words "are authorized." The purpose of this amendment is to comport the language of this section to the provision in subsection 151 (f), establishing a penalty for refusal to permit entry or inspection "as authorized" by section 134; also, to restore the phrase "as authorized" which appears in the similar section of the present law, and which has been judicially interpreted.

The next amendment is, in subsection (a) of section 153, to strike out "paragraphs (5), (6), (8), (9), and (10)" and insert in lieu thereof "paragraphs (e), (f), (h), (i), and (j)." This substitution of letters for numbers in designating the particular paragraphs is necessary in order to correct an obvious clerical error. Section 153 of the bill now refers to subparagraphs which do not exist, since section 151 contains lettered subparagraphs rather than numbered subparagraphs.

The sixth amendment to this bill is, in subparagraph (2) of subsection (c) of section 154, to change the comma after the word "health" to a period and strike out the rest of the subparagraph. The purpose of this amendment is to make clear that the Secretary is not authorized to act without a hearing except in the case of articles which are dangerous to health. If there is no danger to health, due process should require that there be a hearing so as to avoid arbitrary action by the Secretary.

The final amendment to this bill is recently enacted Public Law 518 which was signed by the President on July 22, 1954. This law relates to pesticide chemicals and since it is an amendment to the Food and Drug Act it must of necessity be included in this revision in order that the present bill will reflect all of the pertinent laws on the subject.

With the exception of certain clerical amendments such as the renumbering of sections engendered by the insertion of Public Law 518 into the present bill, those are all the amendments which are proposed to be offered to H. R. 9728.

In the case of the bill, H. R. 9729, there are three amendments. In section 131, the proposal is to amend the material within the parentheses so as to read "(exclusive of means of transportation for which statistics are required by law to be filled with, and are compiled and published by, a designated regulatory body)". The purpose of this amendment is to make clear the intent of the Congress that the exception is applicable only where statistics are, under existing law, regularly compiled and published. In such cases, this exception would make it unnecessary for the Census Bureau to compile and publish the same statistics already being compiled and published by some other agency under existing law.

The second amendment is to include in section 8 of the bill a provision relating to furnishing transcripts of tables and other records which was inadvertently omitted when the bill was drafted.

The third amendment is to section 214 of the bill and corrects two typographical errors in that section.

These are the only changes to be offered to H. R. 9729.

There are three amendments to H. R. 9730, which are in the form of provisions to be stricken from the bill because of errors which were made and because of the signing by the President of the tax revision bill which renders certain provisions of the instant bill obsolete.

As I stated earlier, with the amendments which I have discussed, I believe these three codification bills are acceptable to everyone on both sides of the aisle, and will be acceptable as well to the body at the other end of the Capitol.

Mr. BUTLER. I intend to move that these bills be brought up in order and be given immediate consideration.

Mr. MILLIKIN. Mr. President, what does the Senator desire to have done with these bills?

Mr. BUTLER. I should like to have them considered immediately if the Senator does not object.

Mr. MILLIKIN. I do object.

Mr. BUTLER. I think we can pass them in 2 minutes.

Mr. MILLIKIN. How long would it take?

Mr. BUTLER. I do not think it would require more than 2 minutes.

Mr. KNOWLAND. Mr. President, as I understand, this subject has been discussed with the minority members of the Committee on the Judiciary and also with the minority leader.

Mr. BUTLER. That is true. This involves merely carrying out chapter 3, title I of the United States Code, which places this responsibility on the Committee of the Judiciary of the House of Representatives. Nevertheless, to make this work effective, the Senate must concur.

Mr. KNOWLAND. As I understand, the distinguished Senator from Maryland has a high priority engagement this afternoon at 4 o'clock?

Mr. BUTLER. That is correct.

Mr. KNOWLAND. And the Senator desires to dispose of these bills now. May we proceed to consider them with the understanding that if there is much discussion the bills may be laid aside?

Mr. LANGER. Mr. President, will the Senator yield?

Mr. BUTLER. I yield.

Mr. LANGER. I am quite sure there will not be any discussion. Everyone is agreed on this matter, and it should not require more than a minute to pass the bills.

I may say that thousands of dollars have been spent in preparing this material.

Mr. BUTLER. Yes.

Mr. President, I ask unanimous consent that the unfinished business be temporarily laid aside and that the Senate proceed to the consideration of these bills.

The PRESIDING OFFICER. Is there objection?

Mr. MILLIKIN. Mr. President, I object unless we can reach an agreement as to how much time will be required.

Mr. BUTLER. If there is any controversy at all I think the bills should be laid aside. However, I would not like to waste the vast amount of money which has gone into this work.

Mr. MILLIKIN. Will it require more than over 5 minutes?

Mr. BUTLER. I think not.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

REVISION OF TITLE 21 OF THE UNITED STATES CODE

The Senate proceeded to consider the bill (H. R. 9728) to revise, codify, and enact into law, title 21 of the United States Code entitled "Food, Drugs, and Cosmetics," which had been reported from the Committee on the Judiciary with an amendment, on page 90, after the table.

(For Senate engrossed amendment, see pp. 14341-14364 of House proceedings for today.)

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

REVISION OF TITLE 13 OF THE UNITED STATES CODE

The Senate proceeded to consider the bill (H. R. 9729) to revise, codify, and enact into law title 13 of the United States Code entitled "Census," which had been reported from the Committee on the Judiciary with amendments, on page 3, subchapter 1, "General Provisions," section 8, to strike out paragraphs (a), (b), (c), and (d), as follows:

(a) The Secretary may, at his discretion, upon the written request of the governor of any State or Territory or of a court of record, furnish such governor or court of record with certified copies of so much of the population, agriculture, and housing schedules prepared under the authority of subchapter II of Chapter 5 of this title as may be requested, upon the payment of the actual or estimated cost of searching the records and \$1 for certification.

(b) The Secretary may furnish to individuals such data from the population and housing schedules as may be desired for genealogical or other proper purposes, upon payment of the actual cost of searching the records and \$1 for supplying a certificate.

(c) In no case shall information furnished under the authority of this section be used to the detriment of the persons to whom such information relates.

(d) All moneys received by the Department of Commerce or any bureau or agency thereof in payment for the work covered by this section shall be deposited to the credit of an appropriation for collecting statistics.

And to insert in lieu thereof the following:

(a) The Secretary may, upon a written request, and in his discretion, furnish to Governors of States and Territories, courts of record, and individuals, data for genealogical and other proper purposes, from the population, agriculture, and housing schedules prepared under the authority of subchapter, II of chapter 5, upon the payment of the actual, or estimated cost of searching the records and \$1 for supplying a certificate.

(b) The Secretary may furnish transcripts or copies of tables and other census records and make special statistical compilations and surveys for State or local officials, private concerns, or individuals upon the payment of the actual, or estimated cost of such work.

(c) In no case shall information furnished under the authority of this section be used to the detriment of the persons to whom such information relates.

(d) All moneys received by the Department of Commerce or any bureau or agency thereof in payment for furnishing transcripts of census records or making special statistical compilations and surveys shall be deposited to the credit of an appropriation for collecting statistics.

On page 11, in subchapter 1, "Manufacturers, Mineral Industries, and Other Businesses," section 131, after the words "to be filed with", it is proposed to insert "and are compiled and published by."

On page 15, subchapter 1, "Officers and Employees," section 214, after the words "under the provisions of", it is proposed to strike out "his" and insert "this"; and after "\$1,000 or", to strike out "imprisonment" and insert "imprisoned."

Mr. BUTLER. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and

the question is on agreeing to the amendments en bloc.

The amendments were agreed to en bloc.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H. R. 9729) was read the third time and passed.

AMENDMENT OF CERTAIN TITLES OF THE UNITED STATES CODE

The Senate proceeded to consider the bill (H. R. 9730) to amend various statutes and certain titles of the United States Code for the purpose of correcting obsolete references, and for other purposes, which had been reported from the Committee on the Judiciary with amendments, on page 8, at the beginning of line 21, to strike out "1947" and insert "1927"; in the same line, after the numerals "348", to strike out "Sec. 3 (a)"; on page 17, after line 5, to strike out:

SEC. 17 Subsection (d) of section 211 of the act of June 27, 1952 (ch. 477, title II, chapter 2, 66 Stat. 181, 182; 8 U. S. C., sec. 1181 (d)) is amended by striking out "clause (2) or (3) of subsection (a)" in the two places where such reference appears in such subsection, and in lieu thereof inserting "clause (2) or (4) of subsection (a)", so that such subsection will read as follows:

"(d) No quota immigrant within clause (2) or (4) of subsection (a) shall be admitted under subsection (c) if the entire number of immigrant visas which may be issued to quota immigrants under the same quota for the fiscal year, or the next fiscal year, has already been issued. If such entire number of immigrant visas has not been issued, the Secretary of State, upon notification by the Attorney General of the admission under subsection (c) of a quota immigrant within clause (2) or (4) of subsection (a), shall reduce by one the number of immigrant visas which may be issued to quota immigrants under the same quota during the fiscal year in which such immigrant is admitted, or, if the entire number of immigrant visas which may be issued to quota immigrants under the same quota for the fiscal year has been issued, then during the next following fiscal year."

On page 18, line 4, to change the section number from "18" to "17"; on page 19, line 10, to change the section number from "19" to "18"; on page 20, line 20, to change the section number from "20" to "19"; on page 22, line 22, to change the section number from "21" to "20"; on page 23, line 14, to change the section number from "22" to "21"; on page 24, line 1, to change the section number from "23" to "22"; in line 20, to change the section number from "24" to "23"; on page 25, line 15, to change the section number from "25" to "24"; on page 26, line 15, to change the section number from "26" to "25"; on page 27, line 12, to change the section number from "27" to "26"; on page 29, line 18, to change the section number from "28" to "27"; on page 31, line 4, to change the section number from "29" to "28"; in line 21 to change the section number from "30" to "29"; on page 32, line 11, to change the section number from "31" to "30"; on page 33, line 19, to change the section number from "32" to "31"; on page 34,

line 18, to change the section number from "33" to "32"; on page 35, line 15, to change the section number from "34" to "33"; on page 36, line 23, to change the section number from "35" to "34"; on page 38, line 16, to change the section number from "36" to "35"; in line 23, to change the section number from "37" to "36"; on page 39, line 11, to change the section number from "38" to "37"; after line 22, to strike out:

SEC. 39. The cross reference set out as section 3633 (b) of the Internal Revenue Code (53 Stat., pt. 1, p. 441; 26 U. S. C., sec. 3633 (b)) is amended by striking out the reference "3799", appearing therein, and in lieu thereof inserting "3800", so that such cross reference, exclusive of the catchline thereof, will read as follows:

"For authority of district courts to issue orders, processes, and judgments for enforcement of internal revenue laws, see section 3800."

On page 40, line 6, to change the section number from "40" to "38"; in line 13, to change the section number from "41" to "39"; on page 42, line 11, to change the section number from "42" to "40"; in line 15, to change the section number from "43" to "41"; on page 43, line 14, after the word "Each" to strike out "commission" and insert "commissioner"; in line 25, to change the section number from "44" to "42"; on page 44, line 4, to change the section number from "45" to "43"; in line 13, to change the section number from "46" to "44"; on page 46, line 21, to change the section number from "47" to "45"; on page 48, line 8, to change the section number from "48" to "46"; in line 15, to change the section number from "49" to "47"; on page 49, line 7, to change the section number from "50" to "48"; on page 50, line 13, to change the section number from "51" to "49"; on page 51, line 16, to change the section number from "52" to "50"; on page 54, line 3, to change the section number from "53" to "51"; on page 56, line 14, to change the section number from "54" to "52"; on page 55, line 11, after the word "be", to insert "the"; on page 58, line 14, to change the section number from "56" to "54"; on page 59, line 1, to change the section number from "57" to "55"; on page 61, line 3, to change the section number from "58" to "56"; in line 13, to change the section number from "59" to "57"; on page 62, after line 2, to strike out:

SEC. 60. Section 2517 of title 28, United States Code, is amended by (1) striking out the subsection designation "(a)" where it appears in subsection (a), and (2) by striking all of subsection (b), so that the section will read as follows:

"Every final judgment rendered by the Court of Claims against the United States shall be paid out of any general appropriation therefor, on presentation to the General Accounting Office of a certification of the judgment by the clerk and chief judge of the court."

In line 13, to change the section number from "61" to "58", and in line 20, to change the section number from "62" to "59."

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

REVISION OF LAWS RELATING TO ESPIONAGE AND SABOTAGE— CONFERENCE REPORT

Mr. FERGUSON. Mr. President, on behalf of the Senator from North Dakota [Mr. LANGER], I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 9580) to revise and extend the laws relating to espionage and sabotage, and for other purposes. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The legislative clerk read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 9580) to revise and extend the laws relating to espionage and sabotage, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: Strike out all of title III, including the title.

And the Senate agree to the same.

WILLIAM LANGER,
EVERETT M. DIRKSEN,
PAT McCARRAN,

Managers on the Part of the Senate.

LOUIS E. GRAHAM,
RUTH THOMPSON,
DEWITT S. HYDE,
EMANUEL CELLER,
FRANCIS E. WALTER,

Managers on the Part of the House.

The PRESIDING OFFICER. Is there objection to the present consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

Mr. FERGUSON. Mr. President, under the conference report title III, providing for the registration of persons trained in espionage and sabotage, would be stricken out. The same provision is in the present law, the Internal Security Act of 1950. The provision was put in House bill 9580, and when the House of Representatives passed the bill they provided that certain people would be exempted, diplomatic representatives, or those connected directly with Government. The Senate would not agree to that provision, so in the conference the whole provision was stricken.

It was the intention that we should consider this matter in a separate bill, so that the new division in the Department of Justice would have charge of it. I believe that we should accept the conference report, because it does not do violence to the present law.

The PRESIDING OFFICER (Mr. WILLIAMS in the chair). The question is on agreeing to the conference report.

The report was agreed to.

RELIEF OF CERTAIN BASQUE SHEEPHERDERS

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 2074) for the relief of certain Basque sheepherders, which were, on page 1, lines 3 and 4, strike out "That, for the purposes of the Immigration and Nationality Act," and insert "That the Attorney General is authorized and directed to discontinue any deportation proceedings and to cancel any outstanding orders and warrants of deportation, warrants of arrests, and bonds which may have been issued in the cases of the following aliens"; on page 2, at the end of line 13, insert a "period"; and on page 2, strike out lines 14 through 21 inclusive, and insert "From and after the date of enactment of this act, these aliens shall not again be subject to deportation by reason of the same facts upon which such deportation proceedings were commenced or any such warrants and orders have issued."

Mr. McCARRAN. Mr. President, I move that the Senate concur in the House amendments to S. 2074.

The motion was agreed to.

CONSTRUCTION, OPERATION, AND MAINTENANCE OF COLORADO RIVER STORAGE PROJECT

The Senate resumed the consideration of the bill (S. 1555) to authorize the Secretary of the Interior to construct, operate, and maintain the Colorado River storage project and participating projects, and for other purposes.

The bill had been reported from the Committee on Interior and Insular Affairs, with an amendment, to strike out all after the enacting clause and insert:

That, in order to initiate the comprehensive development of the water resources of the upper Colorado River Basin, the Congress, in the exercise of its constitutional authority to provide for the general welfare, to regulate commerce among the States and with the Indian tribes, and to make all needful rules and regulations respecting property belonging to the United States, and for the purposes, among others, for regulating the flow of the Colorado River, storing water for beneficial consumptive use, making it possible for the States of the upper Basin to utilize, consistently with the provisions of the Colorado River compact, the apportionments made to and among them in the Colorado River compact and the upper Colorado River Basin compact, respectively, providing for the reclamation of arid and semi-arid land, for the control of floods and for the improvement of navigation, and the generation of hydroelectric power, as an incident of the foregoing purposes, hereby authorizes the Secretary of the Interior (1) to construct, operate, and maintain the following initial units of the Colorado River storage project, consisting of dams, reservoirs, powerplants, transmission facilities and appurtenant works: Cross Mountain, Curecanti, Echo Park, Flaming Gorge, Glen Canyon, and Navaho: *Provided*, That the Curecanti Dam shall be constructed to a height which will impound not less than 940,000 acre-feet of water or will create a reservoir of such greater capacity as can be obtained by a high waterline located at 7,520 feet above mean sea level and that construction thereof shall not be undertaken until the Secretary has, on the basis of further engi-

neering and economic investigations, re-examined the economic justification of such unit and, accompanied by appropriate documentation in the form of a supplemental report, has certified to the Congress and to the President that, in his judgment, the benefits of such unit will exceed its costs; and (2) to construct, operate, and maintain the following additional reclamation projects (including power-generating and transmission facilities related thereto), hereinafter referred to as participating projects: Central Utah (initial phase); Emery County, Fla., Gooseberry, Hammond, La Barge, Lyman, Paonia (including the Minnesota unit, a dam and reservoir on Muddy Creek just above its confluence with the North Fork of the Gunnison River, and other necessary works), Pine River Extension, Seedskadee, Siit, Smith Fork, San Juan-Chama, Navaho: *Provided*, That (a) construction of the participating projects set forth in this clause (2) shall not be undertaken until the Secretary has reexamined the economic justification of such project and, accompanied by appropriate documentation in the form of a supplemental report, has certified to the Congress, through the President, that, in his judgment, the benefits of such project will exceed its costs, and that the financial reimbursability requirements set forth in section 4 of this act can be met. The Secretary's supplemental report for each such project shall include, among other things, (i) a reappraisal of the prospective direct agricultural benefits of the project made by the Secretary after consultation with the Secretary of Agriculture; (ii) a reevaluation of the nondirect benefits of the project; and (iii) allocations of the total cost of construction of each participating project or separable features thereof, excluding any expenditures authorized by section 7 of this act, to power, irrigation, municipal water supply, flood control or navigation, or any other purpose authorized under reclamation law. Section 1 (c) of the Flood Control Act of 1944 shall, except as hereinafter provided for the San Juan-Chama and the Navajo participating projects, not be applicable to such supplemental reports; and, (b) that no appropriation for or construction of the San Juan-Chama project or the Navajo participating project shall be made or begun until coordinated reports thereon shall have been submitted to the affected States, including (but without limiting the generality of the foregoing) the State of Texas, pursuant to the act of December 22, 1944, and approved and said projects shall have been authorized by the Congress: *Provided further*, That with reference to the San Juan-Chama project, it shall be limited to a single off stream dam and reservoir on a tributary of the Chama River to be used solely for the control and regulation of water imported from the San Juan River, that no power facilities shall be established, installed, or operated along the diversion or on the reservoir or dam, and such dam and reservoir shall at all times be operated by the Bureau of Reclamation of the Department of the Interior in strict compliance with the Rio Grande compact as administered by the Rio Grande Compact Commission.

SEC. 2. In order to achieve such comprehensive development as will assure the consumptive use in the States of the upper Colorado River Basin of waters of the Colorado River system the use of which is apportioned to the upper Colorado River Basin by the Colorado River compact and to each State thereof by the upper Colorado River Basin compact, it is the intent of the Congress in the future to authorize the construction, operation, and maintenance of further units of the Colorado River storage project, of additional phases of participating projects authorized in this act, and of new participating projects as additional information becomes

available and additional needs are indicated. It is hereby declared to be the purpose of the Congress to authorize as participating projects only projects (including units or phases thereof)—

(1) for the use, in one or more of the States designated in article III of the upper Colorado River Basin compact, of waters of the upper Colorado River system the consumptive use of which is apportioned to those States by that article; and

(2) for which pertinent data sufficient to determine their probable engineering and economic justification and feasibility shall be available. It is likewise declared to be the policy of the Congress that the costs of any participating project authorized in the future shall be amortized from its own revenues to the fullest extent consistent with the provisions of this act and Federal reclamation law.

SEC. 3. Except as otherwise provided in this act, in constructing, operating, and maintaining the units of the Colorado River storage project and the participating projects listed in section 1 of this act, the Secretary shall be governed by the Federal reclamation laws (act of June 17, 1902, 32 Stat. 388, and acts amendatory thereof or supplementary thereto): *Provided*, That (a) irrigation repayment contracts shall be entered into which, except as otherwise provided for the Paonia and Eden projects, provide for repayment of the obligation assumed thereunder with respect to any project contract unit over a period of not more than 50 years exclusive of any development period authorized by law; (b) prior to construction of irrigation distribution facilities, repayment contracts shall be made with an "organization" as defined in paragraph 2 (g) of the Reclamation Project Act of 1939 (53 Stat. 1187) which has the capacity to levy assessments upon all taxable real property located within its boundaries to assist in making repayments, except where a substantial proportion of the lands to be served are owned by the United States; (c) contracts relating to municipal water supply may be made without regard to the limitations of the last sentence of section 9 (c) of the Reclamation Project Act of 1939 and (d), as to Indian lands within, under or served by any participating project, payment of construction costs within the capability of the land to repay shall be subject to the act of July 1, 1932 (47 Stat. 564). All units and participating projects shall be subject to the apportionments of the use of water between the upper and lower basins of the Colorado River and among the States of the upper basin fixed in the Colorado River compact and the upper Colorado River Basin compact, respectively, and to the terms of the treaty with the United Mexican States (Treaty Series 994).

SEC. 4. (a) There is hereby authorized a separate fund in the Treasury of the United States to be known as the upper Colorado River Basin fund (hereinafter referred to as the basin fund), which shall remain available until expended, as hereafter provided, for carrying out provisions of this act other than section 7.

(b) All appropriations made for the purpose of carrying out the provisions of this act, other than section 7, shall be credited to the basin fund as advances from the general fund of the Treasury.

(c) All revenues collected in connection with the operation of the Colorado River storage project and participating projects shall be credited to the Basin Fund, and shall be available, without further appropriation, for (1) defraying the costs of operation, maintenance, and replacements of, and emergency expenditures for, all facilities of the Colorado River storage project and participating projects, within such separate limitations as may be included in annual appro-

priation acts, (2) payment as required by subsection (d) of this section, (3) payment of the reimbursable construction costs of the Paonia project which are beyond the ability of the water users to repay within the period prescribed in the act of June 25, 1947 (61 Stat. 181), said payment to be made within 50 years after completion of that portion of the project which has not been constructed as of the date of this act, and (4) payment in connection with the irrigation features of the Eden project as specified in the act of June 28, 1949 (63 Stat. 277): *Provided*, That revenues credited to the Basin Fund shall not be available for appropriation for construction of the units and participating projects authorized by or pursuant to this act.

(d) Revenues in the Basin Fund in excess of operating needs shall be paid annually to the general fund of the Treasury to return—

(1) the costs of each unit, participating project, or any separable feature thereof which are allocated to power pursuant to section 5 of this act, within a period not exceeding 50 years from the date of completion of such unit, participating project, or separable feature thereof;

(2) the costs of each unit, participating project, or any separable feature thereof which are allocated to municipal water supply pursuant to section 5 of this act, within a period not exceeding 50 years from the date of completion of such unit, participating project, or separable feature thereof;

(3) interest on the unamortized balance of the investment (including interest during construction) in the power and municipal water supply features of each unit, participating project, or any separable feature thereof, at a rate determined by the Secretary of the Treasury as provided in subsection (e), and interest due shall be a first charge; and

(4) the costs of each unit, participating project, or any separable feature thereof which are allocated to irrigation pursuant to section 5 of this act within a period not exceeding 50 years, in addition to any development period authorized by law, from the date of completion of such unit, participating project, or separable feature thereof, or, in the cases of the Paonia project and of Indian lands, within a period consistent with other provisions of law applicable thereto.

(e) The interest rate applicable to each unit of the storage project and each participating project shall be determined by the Secretary of the Treasury as of the time the first advance is made for initiating construction of said unit or project. Such interest rate shall be determined by calculating the average yield to maturity on the basis of daily closing market bid quotations during the month of June next preceding the fiscal year in which said advance is made, on all interest-bearing marketable public-debt obligations of the United States having a maturity date of 15 or more years from the first day of said month, and by adjusting such average annual yield to the nearest one-eighth of 1 percent.

(f) Business-type budgets shall be submitted to the Congress annually for all operations financed by the Basin Fund.

SEC. 5. Upon completion of each unit, participating project or separable feature thereof the Secretary shall allocate the total costs (excluding any expenditures authorized by section 7 of this act) of constructing said unit, project or feature to power, irrigation, municipal water supply, flood control, navigation, or any other purposes authorized under reclamation law. Allocations of construction, operation and maintenance costs to authorized nonreimbursable purposes shall be nonreturnable under the provisions of this act. On January 1 of each year the Secretary shall report to the Congress for the previous fiscal year, beginning with the fiscal year 1955, upon

closing quotations last night, were valued at \$18.50 a share. He owns less than five five-hundredths of 1 percent of the Southern Co.

Mr. Mitchell should have known before he spoke that Bobby Jones was only interested in the Southern Co. to an insignificant degree. He knew, or should have known, that the Southern Co. assumed only 20 percent of the proposed contract and the Middle-South Co. the majority portion, or 80 percent of the whole. If there was something worthwhile to pass around the President could have demanded that the Southern Co. take over the contract outright.

The facts are that the President, in his budget message, made back in January, called for private power to do this job.

The affected agencies of Government, soon afterwards, looked about to determine if any company, or group of companies, appeared to be interested in providing the 600,000 kilowatts of power to be pumped into the TVA lines for use by the atomic energy Paducah plant by displacement. These agencies first conferred with companies in the Paducah area proper, since such companies now hold contracts to supply power for use by the Atomic Energy Paducah plant. None of these companies were interested. Then it was ascertained that the power shortage really existed in the Memphis territory and it would be in the interest of economy, and for the further reason that it was highly desirable to disperse these plants to make them less susceptible to enemy attack. It was determined to be more logical to build the plant near where the power was needed rather than to cart it more than 100 miles from Paducah to the Memphis area. The Middle-South group became interested in that such companies were located in the Memphis area. The Middle-South Co. has asked for any company to come with them and share the responsibility of such an undertaking. The Southern Co. would not come in for more than a 20-percent portion of the whole contract. All comers have for many months been privileged to make offers or to bid in the furnishing of this needed power.

President Eisenhower laid down, in his budget message, a broad policy not unknown in this country—that taxpaying concerns should be given an opportunity to contract with the Government for power badly needed in the national defense when such industry, or industries, are ready, willing, and able to do the job at reasonable rates. There is little question about the reasonableness of the rates which the Middle South-Southern group have offered in the proposal submitted by them.

On pages 11042 and 11043 of the CONGRESSIONAL RECORD of July 23, 1954, I inserted some tables which compare the Dixon-Yates proposal with the offer made by TVA, and also a comparison of the Dixon-Yates offer as against the rate now paid by TVA at the Paducah plant. Taking the rate now paid by TVA at the Paducah plant, there is a saving of \$183,400 per year in the Dixon-Yates proposal after the payment of all taxes by such companies.

The issue boils down to the question of whether the Federal Government shall continue to build more steam-generating plants in the TVA territory, to the exclusion of all the other areas in the country. There are other valleys and sections of the Nation that are just as deserving of being the recipient of development at the expense of all of us, as is the one favored territory. Is it going to be the policy of the Government of the United States to provide all power requirements in any area, or is it just to be limited to the TVA area? Is the Tennessee Valley the only favored valley to be developed by the Federal Government? If there is a justification of the Federal Government building steam-power plants in the TVA section of the country, in order for that area to meet the power demands, it is just and logical to make it a national policy for the Federal Government to build power facilities throughout the country where they may be needed and where there is a demand for power. It is time to consider some of the other sections of America that have been helping to pay the heavy burden in taxes to build up and develop this small section of the country.

FOOD, DRUGS, AND COSMETICS, TITLE 21, UNITED STATES CODE

Mr. REED of Illinois. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H. R. 9728) to revise, codify, and enact into law, title 21 of the United States Code, entitled "Food, Drugs, and Cosmetics," with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, which were to strike out all after the enacting clause and insert:

That title 21 of the United States Code, entitled "Food, Drugs, and Cosmetics", is hereby revised, codified, and enacted into law, and may be cited as "Title 21, United States Code, § —," as follows:

TITLE 21—FOODS, DRUGS, AND COSMETICS	
Part	Sec.
I. Food and Drug Administration.....	1
II. Animals, poultry and meats.....	451
III. Narcotics.....	711
PART I—FOOD, DRUGS, AND COSMETICS GENERALLY	
Chapter	Sec.
1. Food and Drug Administration.....	1
3. Food, Drugs, and Cosmetics.....	41
5. Milk and Cream.....	201
7. Tea Importation.....	261
9. Caustic Poisons.....	311

Chapter 1—Food and Drug Administration Sec.

1. Establishment.
2. Functions of Secretary of Health, Education, and Welfare.
3. Board of Tea Experts.
4. Board of Tea Appeals.

§ 1. Establishment

The Food and Drug Administration shall continue as a constituent organization of the Department of Health, Education, and Welfare.

§ 2. Functions of Secretary of Health, Education, and Welfare

The Secretary of Health, Education, and Welfare shall perform the functions prescribed for him under part I of this title,

and may from time to time make such provisions as he deems appropriate authorizing the performance of any of the functions of the Secretary by any other officer, or by any agency or employee, of the Department.

§ 3. Board of Tea Experts

Before February 16 of each year, the Secretary of Health, Education, and Welfare shall appoint a Board of Tea Experts of 7 members who are experts in teas, for a term of 1 year subject to removal by the Secretary. The Secretary shall fill vacancies by appointment for an unexpired term.

The Board shall appoint a presiding officer, who shall be the medium of all communications to or from the Board. Each member of the Board shall receive as compensation the sum of \$50 per annum, and necessary expenses in connection with his duties under this title, to be paid by the Secretary of Health, Education, and Welfare.

§ 4. Board of Tea Appeals

The United States Board of Tea Appeals shall consist of three employees of the Department of Health, Education, and Welfare designated by the Secretary of Health, Education, and Welfare.

Chapter 3—Food, drugs, and cosmetics

Subchapter I—Definitions, Determinations, and Representations

Sec.

41. Definitions.
42. Determination of misbranding.
43. Representation as antiseptic.
44. Short title.

Subchapter II—Food

51. Definitions and standards for food; procedure governing establishment; objections; hearings; applicability of other provisions.
52. Adulterated food.
53. Misbranded food.
54. Exemptions.
55. Tolerances for poisonous ingredients; certification of coal-tar colors for foods.
56. Tolerances for pesticide chemicals in or on raw agricultural products.
57. Emergency permit control.
58. Seafood; examination on request of packer; fees.
59. Colored oleomargarine; congressional finding as to sale or serving.
60. Colored oleomargarine; sale in State where produced; packaging and labeling; service in restaurants.
61. Oleomargarine, butterine, imitation butter or cheese; application of State laws.
62. Exemption of meats and meat food products.

Subchapter III—Drugs and Devices

71. Adulterated drugs and devices.
72. Misbranded drugs and devices.
73. Exemptions.
74. Certification of coal-tar colors for drugs.
75. New drugs.
76. Certification of drugs containing insulin.
77. Certification of drugs containing certain antibiotics.

Subchapter IV—Cosmetics

91. Adulterated cosmetics.
92. Misbranded cosmetics.
93. Exemptions.
94. Certification of coal-tar colors for cosmetics.

Subchapter V—Imports and Exports

111. Examination and refusal of imports.
112. Exports adulterated or misbranded.
113. Suspension of adulterated imports.

Subchapter VI—Administrative Provisions

131. Regulations; hearings; judicial review.
132. Examinations and investigations.
133. Records of interstate shipment.
134. Factory inspection notice; reports; receipts for samples; copies of analyses.
135. Publicity.

136. Cost of certification of coal-tar colors.
 137. Revision of Pharmacopoeia; development of analyses and tests.

Subchapter VII—Enforcement and Penalties

151. Prohibited acts.
 152. Penalties; exemptions.
 153. Injunctions.
 154. Libel for condemnation.
 155. Hearing before violation reported.
 156. Report of minor violations.
 157. Proceedings in name of United States; subpenas.

Subchapter I—Definitions, Determinations, Representations, and Short Title

§ 41. Definitions

As used in this chapter—

(a) "Secretary" means the Secretary of Health, Education, and Welfare.

(b) "Department" means the Department of Health, Education, and Welfare.

(c) "Butter" means the food product usually known as butter, and which is made exclusively from milk or cream, or both, with or without common salt, and with or without additional coloring matter, and containing not less than 80 percent by weight of milk fat, all tolerances having been allowed for.

(d) "Cosmetic" means articles other than soap, (1) intended to be rubbed, poured, sprinkled, or sprayed on, or otherwise applied to or introduced into the human body for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) intended for use as a component of any such articles.

(e) "Device", except when used in sections 42, 53 (f), 72 (c), 92 (c), and 151 (i) of this title, means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended (1) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or (2) to affect the structure or any function of the body of man or other animals.

(f) "Drug" means (1) articles recognized in an official compendium; and (2) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (3) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and (4) articles intended for use as a component of any articles specified in clauses (1), (2), or (3) of this paragraph; but does not include devices or their components, parts, or accessories.

(g) "Food" means (1) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article.

(h) "Interstate commerce" means (1) commerce between any State or Territory and any place outside thereof, and (2) commerce within the District of Columbia or within any other Territory not organized with a legislative body.

(i) "Label" means a display of written, printed, or graphic matter upon the immediate container other than a package liner, of any article; and a requirement made by or under authority of this chapter that any word, statement, or other information appear on the label shall not be considered to be complied with unless it also appears on or is easily legible through the outside container or wrapper, if any there be, of the retail package of such article.

(j) "Labeling" means all labels and other written, printed, or graphic matter (1) upon any article or any of its containers or wrappers, or (2) accompanying such article.

(k) "New drug" means—

(1) Any drug the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety of drugs, as safe for use under the conditions prescribed, recommended, or sug-

gested in the labeling thereof, unless at any time prior to June 25, 1938, it was subject to the Food and Drugs Act of June 30, 1906, as amended, and at such time its labeling contained the same representations concerning the conditions of its use; or

(2) Any drug the composition of which is such that, as a result of investigations to determine its safety for use under such conditions, it has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.

(l) "Nonfat dry milks solids" or "defatted milk solids" is the product resulting from the removal of fat and water from the sweet milk of cows, and containing (1) the lactose, milk proteins, and milk minerals in the same relative proportions as in the fresh milk from which made, (2) not over 5 percent by weight of moisture, and (3) not over 1½ percent by weight of fat content unless otherwise indicated.

(m) "Official compendium" means the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, official National Formulary, or any supplement to any of them.

(n) "Package" includes wrapped meats inclosed in papers or other materials as prepared by the manufacturers thereof for sale.

(o) "Person" means an individual, partnership, corporation, or association.

(p) "Territory" includes the District of Columbia and any Territory or possession of the United States, but not the Canal Zone.

(q) The term "pesticide chemical" means any substance which, alone, in chemical combination or in formulation with one or more other substances, is an "economic poison" within the meaning of the Federal Insecticide, Fungicide, and Rodenticide Act as now in force or as hereafter amended, and which is used in the production, storage, or transportation of raw agricultural commodities.

(r) The term "Raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing.

§ 42. Determination of misbranding

If an article is alleged to be misbranded because the labeling is misleading, there shall be taken into account, among other things, in determining whether the labeling is misleading not only representations made or suggested by statement, word, design, device, or any combination thereof, but also the extent to which the labeling fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling relates under the conditions of use prescribed in the labeling thereof or under such conditions of use as are customary or usual.

§ 43. Representation as antiseptic

The representation of a drug, in its labeling, as an antiseptic shall constitute a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or for such other use as involves prolonged contact with the body.

§ 44. Short title

This chapter may be cited as the "Federal Food, Drug, and Cosmetic Act."

Subchapter II—Food

§ 51. Definitions and standards for food; procedure governing establishment; objections; hearings; applicability of other provisions

(a) Whenever in the judgment of the Secretary such action will promote honesty and fair dealing in the interest of consumers, the Secretary shall promulgate regulations

fixing and establishing for any food, under its common or usual name insofar as practicable, a reasonable definition and standard of identity, a reasonable standard of quality, and/or reasonable standards of fill of container.

The Secretary may not establish a definition and standard of identity or standard of quality for fresh or dried fruits, fresh or dried vegetables, or butter, but may establish definitions and standards of identity, relating only to maturity and to the effects of freezing, for avocados, cantaloupes, citrus fruits, and melons.

In prescribing any standard of fill of container, the Secretary shall give consideration to the natural shrinkage in storage and in transit of fresh natural food and to need for the necessary packing and protective material.

In prescribing any standard of quality for any canned fruit or canned vegetable, the Secretary shall give consideration to and make due allowance for the differing characteristics of the several varieties of such fruit or vegetable.

In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted, the Secretary shall, for the purpose of promoting honesty and fair dealing in the interest of consumers, designate the optional ingredients which shall be named on the label.

(b) (1) Any action under subsection (a) of this section for the issuance, amendment, or repeal of any regulation shall be begun by a proposal made (A) by the Secretary of his own initiative, or (B) by petition of any interested person, showing reasonable grounds therefor, filed with the Secretary. The Secretary shall publish the proposal and shall afford all interested persons an opportunity to present their views thereon, orally or in writing. As soon as practicable thereafter, the Secretary shall by order act upon such proposal and shall make such order public. Except as provided in paragraph (2) of this subsection the order shall become effective at such time as may be specified therein, but not prior to the day following the last day on which objections may be filed under such paragraph.

(2) At any time prior to the 30th day after the date on which an order entered under paragraph (1) of this subsection is made public, any person who will be adversely affected by such order if placed in effect may file objections thereto with the Secretary, specifying with particularity the provisions of the order deemed objectionable, stating the grounds therefor, and requesting a public hearing upon such objections. Until final action upon such objections is taken by the Secretary under paragraph (3) of this subsection, the filing of such objections shall operate to stay the effectiveness of those provisions of the order to which the objections are made. As soon as practicable after the time for filing objections has expired the Secretary shall publish a notice in the Federal Register specifying those parts of the order which have been stayed by the filing of objections and, if no objections have been filed, stating that fact.

(3) As soon as practicable after such request for a public hearing, the Secretary, after due notice, shall hold such a public hearing for the purpose of receiving evidence relevant and material to the issues raised by such objections. At the hearing, any interested person may be heard in person or by representative. As soon as practicable after completion of the hearing, the Secretary shall by order act upon such objections and make such order public. Such order shall be based only on substantial evidence of record at such hearing and shall set forth, as part of the order, detailed findings of fact on which the order is based. The Secretary shall specify in the order the date on which

it shall take effect, except that it shall not be made to take effect prior to the 90th day after its publication unless the Secretary finds that emergency conditions exist necessitating an earlier effective date, in which event the Secretary shall specify in the order his findings as to such conditions. Such order shall be subject to the provisions of section 131 (f) and (g) of this title.

§ 52. Adulterated food

A food is deemed to be adulterated—

(a) Poisonous, insanitary, etc., ingredients: (1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health unless the substance is not an added substance and its quantity in such food does not ordinarily render its injurious to health; or (2) if it bears or contains any added poisonous or added deleterious substance, except a pesticide chemical in or on a raw agricultural commodity, which is unsafe within the meaning of section 55 of this title, or if it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of section 56 (a) of this title; or (3) if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for food; or (4) if it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth or whereby it may have been rendered injurious to health; or (5) if it is, in whole or in part, the product of a diseased animal or of an animal which has died otherwise than by slaughter or (6) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

(b) Absence, substitution, or addition of constituents: (1) If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or (2) if any substance has been substituted wholly or in part therefor; or (3) if damage or inferiority has been concealed in any manner; or (4) if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

(c) Uncertified coal-tar coloring: If it bears or contains a coal-tar color other than one from a batch that has been certified in accordance with regulations as provided by section 55 of this title. This paragraph does not apply to citrus fruit bearing or containing a coal-tar color where application for listing of such color has been made under this subchapter but not acted on by the Secretary, if such color was commonly used prior to June 25, 1938, for the purpose of coloring citrus fruit.

(d) Confectionery containing alcohol or nonnutritive substance: If it is confectionery, and it bears or contains any alcohol or nonnutritive article or substance except harmless coloring, harmless flavoring, harmless resinous glaze not in excess of four-tenths of 1 percent, natural gum, and pectin. This paragraph does not apply to any confectionery by reason of its containing less than one-half of 1 percent by volume of alcohol derived solely from the use of flavoring extracts, or to any chewing gum by reason of its containing harmless nonnutritive masticatory substances.

(e) Insanitary ingredients in oleomargarine or margarine or butter and any of the raw material used therein consisted in whole or in part of any filthy, putrid, or decomposed substance, or such oleomargarine or margarine or butter is otherwise unfit for food.

§ 53. Misbranded food

A food is deemed to be misbranded—

(a) False or misleading labeling: If its labeling is false or misleading in any particular.

(b) Offer for sale under another name: If it is offered for sale under the name of another food.

(c) Imitation: If it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated.

(d) Misleading container: If its container is so made, formed, or filled as to be misleading.

(e) Package form: If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count. Under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary.

(f) Prominence of information on label: If any word, statement, or other information required by or under authority of this chapter to appear on the label or labels is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(g) Representation as to identity: If it purports to be or is represented as a food for which a definition and standard of identity has been prescribed by regulation as provided by section 51 of this title, unless (1) it conforms to such definition and standard, and (2) its label bears the name of the food specified in the definition and standard, and, insofar as required by such regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such food.

(h) Representation as to quality and fill of container: If it purports to be or is represented as—

(1) a food for which a standard of quality has been prescribed by regulations as provided by section 51 of this title, and its quality falls below such standard, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard; or

(2) a food for which a standard or standards of fill of container has been prescribed by regulations as provided by section 51 of this title, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard.

(i) Label where no representation as to standard of identity: If it is not subject to the provisions of paragraph (g) of this section unless its label bears (1) the common or usual name of the food, if any there be, and (2) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavoring, and colorings without naming each. The Secretary shall promulgate regulations establishing exemptions to the extent that compliance with the requirements of clause (2) of this paragraph is impracticable, or results in deception or unfair competition.

(j) Representation for special dietary use.—If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the Secretary determines to be and by regulations prescribes as necessary in order fully to inform purchasers as to its value for such uses.

(k) Artificial flavoring, etc.; exception of articles from (g), (i), and (k): If it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it

bears labeling stating that fact. The Secretary shall promulgate regulations establishing exemptions to the extent that compliance with the requirements of this paragraph is impracticable. The provisions of this paragraph and paragraphs (g) and (i) of this section with respect to artificial coloring shall not apply in the case of butter, cheese, or ice cream.

§ 54. Exemptions

The Secretary shall promulgate regulations exempting from any labeling requirement of this chapter (1) small open containers of fresh fruits and fresh vegetables and (2) food which is, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such food is not adulterated or misbranded under the provisions of this chapter upon removal from such processing, labeling, or repacking establishment.

§ 55. Tolerances for poisonous ingredients; certification of coal-tar colors for foods

(a) Any poisonous or deleterious substance added to any food, except where such substance is required in the production thereof or cannot be avoided by good manufacturing practice, shall be deemed to be unsafe for purposes of the application of clause (2) of section 52 (a) of this title. When such substance is so required or cannot be so avoided, the Secretary shall promulgate regulations limiting the quantity therein or thereon to the extent the Secretary finds necessary for the protection of public health, and any quantity exceeding the limits so fixed shall also be deemed to be unsafe for purposes of the application of clause (2) of section 52 (a) of this title. While such a regulation is in effect limiting the quantity of any such substance in the case of any food, such food shall not, by reason of bearing or containing any added amount of such substance, be considered to be adulterated within the meaning of clause (1) of section 52 (a) of this title. In determining the quantity of such added substance to be tolerated in or on different articles of food, the Secretary shall take into account the extent to which the use of such substance is required or cannot be avoided in the production of each such article and the other ways in which the consumer may be affected by the same or other poisonous or deleterious substances.

(b) The Secretary shall promulgate regulations providing for the listing of coal-tar colors which are harmless and suitable for use in food and for the certification of batches of such colors, with or without harmless diluents.

§ 56. Tolerances for pesticide chemicals in or on raw agricultural products

(a) Pesticide chemicals deemed unsafe.—Any poisonous or deleterious pesticide chemical, or any pesticide chemical which is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety of pesticide chemicals, as safe for use, added to a raw agricultural commodity, shall be deemed unsafe for the purposes of the application of clause (2) of section 52 (a) of this title unless—

(1) a tolerance for such pesticide chemical in or on the raw agricultural commodity has been prescribed by the Secretary of Health, Education, and Welfare under this section and the quantity of such pesticide chemical in or on the raw agricultural commodity is within the limits of the tolerance so prescribed; or

(2) with respect to use in or on such raw agricultural commodity, the pesticide chemical has been exempted from the requirement of a tolerance by the Secretary under this section.

While a tolerance or exemption from tolerance is in effect for a pesticide chemical with respect to any raw agricultural commodity, such raw agricultural commodity shall not, by reason of bearing or containing any added amount of such pesticide chemical, be considered to be adulterated within the meaning of clause (1) of section 52 (a) of this title.

(b) Regulations of Secretary establishing tolerances: The Secretary shall promulgate regulations establishing tolerances with respect to the use in or on raw agricultural commodities of poisonous or deleterious pesticide chemicals and of pesticide chemicals which are not generally recognized, among experts qualified by scientific training and experience to evaluate the safety of pesticide chemicals, as safe for use, to the extent necessary to protect the public health. In establishing any such regulation, the Secretary shall give appropriate consideration, among other relevant factors, (1) to the necessity for the production of an adequate, wholesome, and economical food supply; (2) to the other ways in which the consumer may be affected by the same pesticide chemical or by other related substances that are poisonous or deleterious; and (3) to the opinion of the Secretary of Agriculture as submitted with a certification of usefulness under subsection (1) of this section. Such regulations shall be promulgated in the manner prescribed in subsection (d) or (e) of this section. In carrying out the provisions of this section relating to the establishment of tolerances, the Secretary may establish the tolerance applicable with respect to the use of any pesticide chemical in or on any raw agricultural commodity at zero level if the scientific data before the Secretary does not justify the establishment of a greater tolerance.

(c) Regulations of Secretary regarding exemptions: The Secretary shall promulgate regulations exempting any pesticide chemical from the necessity of a tolerance with respect to use in or on any or all raw agricultural commodities when such a tolerance is not necessary to protect the public health. Such regulations shall be promulgated in the manner prescribed in subsection (d) or (e) of this section.

(d) Petitions for regulations; contents; procedure: (1) Any person who has registered, or who has submitted an application for the registration of, an economic poison under the Federal Insecticide, Fungicide, and Rodenticide Act may file with the Secretary of Health, Education, and Welfare, a petition proposing the issuance of a regulation establishing a tolerance for a pesticide chemical which constitutes, or is an ingredient of such economic poison, or exempting the pesticide chemical from the requirement of a tolerance. The petition shall contain data showing—

(A) the name, chemical identity, and composition of the pesticide chemical;

(B) the amount, frequency, and time of application of the pesticide chemical;

(C) full reports of investigations made with respect to the safety of the pesticide chemical;

(D) the results of tests on the amount of residue remaining, including a description of the analytical methods used;

(E) practicable methods for removing residue which exceeds any proposed tolerance;

(F) proposed tolerances for the pesticide chemical if tolerances are proposed; and

(G) reasonable grounds in support of the petition. Samples of the pesticide chemical shall be furnished to the Secretary upon request. Notice of the filing of such petition shall be published in general terms by the Secretary within 30 days after filing. Such notice shall include the analytical methods available for the determination of the residue

of the pesticide chemical for which a tolerance or exemption is proposed.

(2) Within 90 days after a certification of usefulness by the Secretary of Agriculture under subsection (1) of this section with respect to the pesticide chemical named in the petition, the Secretary of Health, Education, and Welfare shall, after giving due consideration to the data submitted in the petition or otherwise before him, by order make public a regulation—

(A) establishing a tolerance for the pesticide chemical named in the petition for the purposes for which it is so certified as useful, or

(B) exempting the pesticide chemical from the necessity of a tolerance for such purposes,

unless within such 90-day period the person filing the petition requests that the petition be referred to an advisory committee or the Secretary within such period otherwise deems such referral necessary, in either of which events the provisions of paragraph (3) of this subsection shall apply in lieu hereof.

(3) In the event that the person filing the petition requests, within 90 days after a certification of usefulness by the Secretary of Agriculture under subsection (1) of this section with respect to the pesticide chemical named in the petition, that the petition be referred to an advisory committee, or in the event the Secretary of Health, Education, and Welfare within such period otherwise deems such referral necessary, the Secretary of Health, Education, and Welfare shall forthwith submit the petition and other data before him to an advisory committee to be appointed in accordance with subsection (g) of this section. As soon as practicable after such referral, but not later than 60 days thereafter, unless extended as hereinafter provided, the committee shall, after independent study of the data submitted to it by the Secretary and other data before it, certify to the Secretary a report and recommendations on the proposal in the petition to the Secretary, together with all underlying data and a statement of the reasons or basis for the recommendations. The 60-day period provided for herein may be extended by the advisory committee for an additional 30 days if the advisory committee deems this necessary. Within 30 days after such certification, the Secretary shall, after giving due consideration to all data then before him, including such report, recommendations, underlying data, and statement, by order make public a regulation—

(A) establishing a tolerance for the pesticide chemical named in the petition for the purposes for which it is so certified as useful; or

(B) exempting the pesticide chemical from the necessity of a tolerance for such purposes.

(4) The regulations published under paragraph (2) or (3) of this subsection will be effective upon publication.

(5) Within 30 days after publication, any person adversely affected by a regulation published pursuant to paragraph (2) or (3) of this subsection, or pursuant to subsection (e) of this section, may file objections thereto with the Secretary, specifying with particularity the provisions of the regulation deemed objectionable, stating reasonable grounds therefor, and requesting a public hearing upon such objections. A copy of the objections filed by a person other than the petitioner shall be served on the petitioner, if the regulation was issued pursuant to a petition. The petitioner shall have 2 weeks to make a written reply to the objections. The Secretary shall thereupon, after due notice, hold such public hearing for the purpose of receiving evidence relevant and material to the issues raised by such objections. Any report, recommendations, underlying data, and reasons certified

to the Secretary by an advisory committee shall be made a part of the record of the hearing, if relevant and material, subject to the provisions of section 1006 (c) of title 5. The National Academy of Sciences shall designate a member of the advisory committee to appear and testify at any such hearing with respect to the report and recommendations of such committee upon request of the Secretary, the petitioner, or the officer conducting the hearing. Any other member of the advisory committee may appear and testify at such hearing. As soon as practicable after completion of the hearing, the Secretary shall act upon such objections and by order make public a regulation. Such regulation shall be based only on substantial evidence of record at such hearing, including any report, recommendations, underlying data, and reasons certified to the Secretary by an advisory committee, and shall set forth detailed findings of fact upon which the regulation is based. No such order shall take effect prior to the 90th day after its publication, unless the Secretary finds that emergency conditions exist necessitating an earlier effective date, in which event the Secretary shall specify in the order his findings as to such conditions.

(e) Proposal of regulations by Secretary; procedure: The Secretary may at any time, upon his own initiative or upon the request of any interested person, propose the issuance of a regulation establishing a tolerance for a pesticide chemical or exempting it from the necessity of a tolerance. Thirty days after publication of such a proposal, the Secretary may by order publish a regulation based upon the proposal which shall become effective upon publication unless within such 30-day period a person who has registered, or who has submitted an application for the registration of, an economic poison under the Federal Insecticide, Fungicide, and Rodenticide Act containing the pesticide chemical named in the proposal, requests that the proposal be referred to an advisory committee. In the event of such a request, the Secretary shall forthwith submit the proposal and other relevant data before him to an advisory committee to be appointed in accordance with subsection (g) of this section. As soon as practicable after such referral, but not later than 60 days thereafter, unless extended as hereinafter provided, the committee shall, after independent study of the data submitted to it by the Secretary and other data before it, certify to the Secretary a report and recommendations on the proposal together with all underlying data and a statement of the reasons or basis for the recommendations. The 60-day period provided for herein may be extended by the advisory committee for an additional 30 days if the advisory committee deems this necessary. Within 30 days after such certification, the Secretary may, after giving due consideration to all data before him, including such report, recommendations, underlying data and statement, by order publish a regulation establishing a tolerance for the pesticide chemical named in the proposal or exempting it from the necessity of a tolerance which shall become effective upon publication. Regulations issued under this subsection shall upon publication be subject to paragraph (5) of subsection (d) of this section.

(f) Confidential character of data until publication: All data submitted to the Secretary or to an advisory committee in support of a petition under this section shall be considered confidential by the Secretary and by such advisory committee until publication of a regulation under paragraph (2) or (3) of subsection (d) of this section. Until such publication, such data shall not be revealed to any person other than those authorized by the Secretary or by an advis-

ory committee in the carrying out of their official duties under this section.

(g) Advisory committees; appointment and functions; compensation; clerical assistance: Whenever the referral of a petition or proposal to an advisory committee is requested under this section, or the Secretary otherwise deems such referral necessary; the Secretary shall forthwith appoint a committee of competent experts to review the petition or proposal and to make a report and recommendations thereon. Each such advisory committee shall be composed of experts, qualified in the subject matter of the petition and of adequately diversified professional background selected by the National Academy of Sciences and shall include one or more representatives from land-grant colleges. The size of the committee shall be determined by the Secretary. Members of an advisory committee shall receive as compensation for their services a reasonable per diem, which the Secretary by rules and regulations prescribe, for time actually spent in the work of the committee, and shall in addition be reimbursed for their necessary traveling and subsistence expenses while so serving away from their places of residence. The members shall not be subject to any other provisions of law regarding the appointment and compensation of employees of the United States. The Secretary shall furnish the committee with adequate clerical and other assistance, and shall by rules and regulations prescribe the procedure to be followed by the committee.

(h) Rights of consultation with committee: A person who has filed a petition or who has requested the referral of a proposal to an advisory committee in accordance with the provisions of this section, as well as representatives of the Department of Health, Education, and Welfare, shall have the right to consult with any advisory committee provided for in subsection (g) of this section in connection with the petition or proposal.

(i) Judicial review of orders; procedure, etc.: (1) In a case of actual controversy as to the validity of any order under subsection (d) (5) (e), or (1) of this section any person who will be adversely affected by such order may obtain judicial review by filing in the United States Court of Appeals for the circuit wherein such person resides or has his principal place of business, or in the United States Court of Appeals for the District of Columbia Circuit, within 60 days after the entry of such order, a petition praying that the order be set aside in whole or in part.

(2) In the case of a petition with respect to an order under subsection (d) (5) (e) of this section, a copy of the petition shall be forthwith served upon the Secretary, or upon any officer designated by him for that purpose, and thereupon the Secretary shall certify and file in the court a transcript of the proceedings and the record on which he based his order. Upon such filing, the court shall have exclusive jurisdiction to affirm or set aside the order complained of in whole or in part. The findings of the Secretary with respect to questions of fact shall be sustained if supported by substantial evidence when considered on the record as a whole, including any report and recommendation of an advisory committee.

(3) In the case of petition with respect to an order under subsection (1) of this section, a copy of the petition shall be forthwith served upon the Secretary of Agriculture, or upon any officer designated by him for that purpose, and thereupon the Secretary shall certify and file in the court a transcript of the proceedings and the record on which he based his order. Upon such filing, the court shall have exclusive jurisdiction to affirm or set aside the order complained of in whole or in part. The findings of the Secretary with respect to questions of fact shall be sustained if supported by

substantial evidence when considered on the record as a whole.

(4) If application is made to the court for leave to adduce additional evidence, the court may order such additional evidence to be taken before the Secretary of Health, Education, and Welfare or the Secretary of Agriculture, as the case may be, and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper, if such evidence is material and there were reasonable grounds for failure to adduce such evidence in the proceedings below. The Secretary of Health, Education, and Welfare or the Secretary of Agriculture, as the case may be, may modify his findings as to the facts and order by reason of the additional evidence so taken, and shall file with the court such modified findings and order.

(5) The judgment of the court affirming or setting aside, in whole or in part, any order under this section shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28. The commencement of proceedings under this section shall not, unless specifically ordered by the court to the contrary, operate as a stay of an order. The courts shall advance on the docket and expedite the disposition of all causes filed therein pursuant to this section.

(j) Temporary tolerances: The Secretary may, upon the request of any person who has obtained an experimental permit for a pesticide chemical under the Federal Insecticide, Fungicide, and Rodenticide Act or upon his own initiative, establish a temporary tolerance for the pesticide chemical for the uses covered by the permit whenever in his judgment such action is deemed necessary to protect the public health, or may temporarily exempt such pesticide chemical from a tolerance. In establishing such a tolerance, the Secretary shall give due regard to the necessity for experimental work in developing an adequate, wholesome, and economical food supply and to the limited hazard to the public health involved in such work when conducted in accordance with applicable regulations under the Federal Insecticide, Fungicide, and Rodenticide Act.

(k) Ratification of regulations under prior law: Regulations affecting pesticide chemicals in or on raw agricultural commodities which were promulgated under the authority of section 406 (a) of the Federal Food, Drug, and Cosmetic Act (of 1938) upon the basis of public hearings instituted before January 1, 1953, in accordance with section 701 (e) of such act, shall be deemed to be regulations under this section and shall be subject to amendment or repeal as provided in subsection (m) of this section.

(l) Certification of usefulness by Secretary of Agriculture; procedure; hearings, etc.: The Secretary of Agriculture, upon request of any person who has registered, or who has submitted an application for the registration of, an economic poison under the Federal Insecticide, Fungicide, and Rodenticide Act, and whose request is accompanied by a copy of a petition filed by such person under subsection (d) (1) of this section with respect to a pesticide chemical which constitutes, or is an ingredient of, such economic poison, shall, within 30 days or within 60 days if upon notice prior to the termination of such 30 days the Secretary deems it necessary to postpone action for such period, on the basis of data before him, either—

(1) certify to the Secretary of Health, Education, and Welfare that such pesticide chemical is useful for the purpose for which a tolerance or exemption is sought; or

(2) notify the person requesting the certification of his proposal to certify that the pesticide chemical does not appear to be useful for the purpose for which a tolerance or exemption is sought, or appears to be use-

ful for only some of the purposes for which a tolerance or exemption is sought.

In the event that the Secretary of Agriculture takes the action described in clause (2) of the preceding sentence, the person requesting the certification, within 1 week after receiving the proposed certification, may either (A) request the Secretary of Agriculture to certify to the Secretary of Health, Education, and Welfare on the basis of the proposed certification; (B) request a hearing on the proposed certification or the parts thereof objected to; or (C) request both such certification and such hearing. If no such action is taken, the Secretary may by order make the certification as proposed. In the event that the action described in clause (A) or (C) is taken, the Secretary shall by order make the certification as proposed with respect to such parts thereof as are requested. In the event a hearing is requested, the Secretary of Agriculture shall provide opportunity for a prompt hearing. The certification of the Secretary of Agriculture as the result of such hearing shall be made by order and shall be based only on substantial evidence of record at the hearing and shall set forth detailed findings of fact. In no event shall the time elapsing between the making of a request for a certification under this subsection and final certification by the Secretary of Agriculture exceed 160 days. The Secretary shall submit to the Secretary of Health, Education, and Welfare with any certification of usefulness under this subsection an opinion, based on the data before him, whether the tolerance or exemption proposed by the petitioner reasonably reflects the amount of residue likely to result when the pesticide chemicals is used in the manner proposed for the purpose for which the certification is made. The Secretary of Agriculture, after due notice and opportunity for public hearing, is authorized to promulgate rules and regulations for carrying out the provisions of this subsection.

(m) Regulations covering procedure for amending or repealing regulations: The Secretary of Health, Education, and Welfare shall prescribe by regulations the procedure by which regulations under this section may be amended or repealed, and such procedure shall conform to the procedure provided in this section for the promulgation of regulations establishing tolerances, including the appointment of advisory committees and the procedure for referring petitions to such committees.

(n) Applicability of section 152 (c): The provisions of section 152 (c) of this title with respect to the furnishing of guaranties shall be applicable to raw agricultural commodities covered by this section.

(o) Payment of fees; waivers and refunds: The Secretary of Health, Education, and Welfare shall by regulation require the payment of such fees as will in the aggregate, in the judgment of the Secretary, be sufficient over a reasonable term to provide, equip, and maintain an adequate service for the performance of the Secretary's functions under this section. Under such regulations, the performance of the Secretary's services or other functions pursuant to this section, including any one or more of the following, may be conditioned upon the payment of such fees: (1) The acceptance of filing of a petition submitted under subsection (d) of this section; (2) the promulgation of a regulation establishing a tolerance, or an exemption from the necessity of a tolerance, under this section, or the amendment or repeal of such a regulation; (3) the referral of a petition or proposal under this section to an advisory committee; (4) the acceptance for filing of objections under subsection (d) (5) of this section; or (5) the certification and filing in court of a transcript of the proceedings and the record under subsection (1) (2) of this section. Such regulations may further provide for waiver or refund of fees in whole

or in part when in the judgment of the Secretary such waiver or refund is equitable and not contrary to the purposes of this subsection.

§ 57. Emergency permit control

(a) Whenever the Secretary finds after investigation that the distribution in interstate commerce of any class of food may, by reason of contamination with micro-organisms during the manufacture, processing, or packing thereof in any locality, be injurious to health, and that the injurious nature cannot be adequately determined after the articles have entered interstate commerce, the Secretary then, and in such case only, shall promulgate regulations providing for the issuance, to manufacturers, processors, or packers of such class of food in such locality, of permits to which shall be attached such conditions governing the manufacture, processing, or packing of such class of food, for the period of time necessary to protect the public health. After the effective date of such regulations, and during such period, no person shall introduce or deliver for introduction into interstate commerce any such food unless such manufacturer, processor, or packer holds a permit issued by the Secretary as provided by such regulations.

(b) The Secretary may suspend immediately upon notice any permit issued under authority of this section if it is found that any of the conditions of the permit have been violated. The holder of a permit so suspended may at any time apply for the reinstatement thereof and the Secretary shall, immediately after prompt hearing and an inspection of the establishment, reinstate such permit if it is found that adequate measures have been taken to comply with and maintain the conditions of the permit as originally issued or as amended.

(c) Any officer or employee designated by the Secretary shall have access to any factory or reestablishment, the operator of which holds a permit from the Secretary, for the purpose of ascertaining whether the conditions of the permit are being complied with. If access for such inspection is denied, the Secretary may suspend the permit until such access is freely given by the operator.

§ 58. Seafood; examination on request of packer; fees

(a) Upon application of any packer of seafood for shipment or sale within the jurisdiction of this chapter, the Secretary may designate inspectors to examine and inspect such food and the production, packing, and labeling thereof. If on such examination and inspection compliance is found with the provisions of this chapter and regulations promulgated thereunder, the applicant shall be authorized or required to mark the food as provided by regulation to show such compliance. The Secretary may promulgate regulations governing the sanitary and other conditions under which the service herein provided shall be granted and maintained, and for otherwise carrying out the purposes of this section.

(b) Services under this section shall be rendered only upon payment by the applicant of fees fixed by regulation in amounts necessary to provide, equip, and maintain an adequate and efficient inspection service. Receipts from such fees shall be covered into the Treasury and shall be available to the Secretary for expenditures incurred in carrying out the purposes of this section, including salaries of additional inspectors when necessary to supplement the number for whose salaries Congress has appropriated.

§ 59. Colored oleomargarine; congressional finding as to sale or serving

The Congress finds and declares that the sale, or the serving in public eating places, of colored oleomargarine or colored margarine without clear identification as such or

which is otherwise adulterated or misbranded within the meaning of this chapter depresses the market in interstate commerce for butter and for oleomargarine or margarine clearly identified and neither adulterated nor misbranded, and constitutes a burden on interstate commerce in such articles. Such burden exists, irrespective of whether such oleomargarine or margarine originates from an interstate source or from the State in which it is sold.

§ 60. Colored oleomargarine; sale in State where produced; packaging and labeling; service in restaurants

(a) Colored oleomargarine or colored margarine which is sold in the same State or Territory in which it is produced shall be subject in the same manner and to the same extent to the provisions of this chapter as if it had been introduced in interstate commerce.

(b) No person shall sell, or offer for sale, colored oleomargarine or colored margarine unless—

(1) such oleomargarine or margarine is packaged;

(2) the net weight of the contents of any package sold in a retail establishment is 1 pound or less;

(3) there appears on the label of the package (A) the word "oleomargarine" or "margarine" in type or lettering at least as large as any other type or lettering on such label and (B) a full and accurate statement of all the ingredients contained in such oleomargarine or margarine; and

(4) each part of the contents of the package is contained in a wrapper which bears the word "oleomargarine" or "margarine" in type or lettering not smaller than 20-point type.

The requirements of this subsection shall be in addition to and not in lieu of any of the other requirements of this chapter.

(c) No person shall possess in a form ready for serving colored oleomargarine or colored margarine at a public eating place unless a notice that oleomargarine or margarine is served is displayed prominently and conspicuously in such place and in such manner as to render it likely to be read and understood by the ordinary individual being served in such eating place or is printed or is otherwise set forth on the menu in type or lettering not smaller than normally used to designate the serving of other food items. No person shall serve colored oleomargarine or colored margarine at a public eating place, whether or not any charge is made therefor, unless (1) each separate serving bears or is accompanied by labeling identifying it as oleomargarine or margarine, or (2) each separate serving thereof is triangular in shape.

(d) If colored oleomargarine or colored margarine complies with the requirements of subsection (b) of this section when served with meals at a public eating place, it shall, at the time of such service, be exempt from the requirements of section 53 of this title, except subsections (a) and (f) of such section.

(e) For the purposes of this section, colored oleomargarine or colored margarine is oleomargarine or margarine having a tint or shade containing more than one and six-tenths degrees of yellow, or of yellow and red collectively, but with an excess of yellow over red, measured in terms of the Lovibond tintometer scale or its equivalent, and the term "oleomargarine" or "margarine" includes—

(1) all substances, mixtures, and compounds known as oleomargarine or margarine;

(2) all substances, mixtures, and compounds which have a consistence similar to that of butter and which contain any edible oils or fats other than milk fat if made in imitation or semblance of butter.

§ 61. Oleomargarine, butterine, imitation butter or cheese; application of State laws

(a) Nothing in this chapter or sections 45 and 55 of title 15 shall be construed as authorizing the possession, sale, or serving of colored oleomargarine, or colored margarine in any State or Territory in contravention of the laws of such State or Territory.

(b) All articles known as oleomargarine, butterine, imitation, process, renovated, or adulterated butter, or imitation cheese, or any substance in the semblance of butter or cheese not the usual product of the dairy and not made exclusively of pure and unadulterated milk or cream, transported into any State or Territory or the District of Columbia, and remaining therein for use, consumption, sale, or storage therein, shall, upon the arrival within the limits therein be subject to the operation and effect of the laws thereof enacted in the exercise of its police powers to the same extent and in the same manner as though such articles or substances had been produced therein, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise.

§ 62. Exemption of meats and meat food products

Meats and meat food products are exempt from the provisions of this chapter to the extent of the application or the extension thereto of sections 491-510 of this title.

Subchapter III—Drugs and Devices

§ 71. Adulterated drugs and devices

A drug or device is deemed to be adulterated—

(a) Poisonous, insanitary, etc., ingredients.—

(1) If it consists in whole or in part of any filthy, putrid, or decomposed substance; or

(2) If it has been prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth or whereby it may have been rendered injurious to health; or

(3) If it is a drug and its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or

(4) If it is a drug and bears or contains, for purposes of coloring only, a coal-tar color other than one from a batch that has been certified in accordance with regulations as provided by section 74 of this title.

(b) Strength, quality, or purity differing from official compendium: If it purports to be or is represented as a drug the name of which is recognized in an official compendium, and its strength differs from, or its quality or purity falls below, the standard set forth in such compendium, determined in accordance with the tests or methods of assay set forth in such compendium. Whenever tests or methods of assay have not been prescribed in such compendium, or, if prescribed, are, in the judgment of the Secretary, insufficient for the making of such determination, the Secretary shall notify the appropriate body charged with the revision of such compendium, and if such body fails within a reasonable time to prescribe tests or methods of assay which, in the judgment of the Secretary, are sufficient, for purposes of this paragraph, he shall promulgate regulations prescribing appropriate tests or methods of assay in accordance with which such determination as to strength, quality, or purity shall be made. No drug defined in an official compendium shall be deemed to be adulterated under this paragraph because it differs from the standard of strength, quality, or purity therefor set forth in such compendium, if its difference in strength, quality, or purity from such standard is plainly stated on its label. A drug recognized in both the United States Pharma-

copela and the Homœopathic Pharmacopœia of the United States shall be subject to the requirements of the United States Pharmacopœia unless it is labeled and offered for sale as a homœopathic drug, in which case it shall be subject to the provisions of the Homœopathic Pharmacopœia of the United States.

(c) Misrepresentation of strength, etc., where drug is unrecognized in compendium. If it is not subject to the provisions of paragraph (b) of this section and its strength differs from, or its purity or quality falls below, that which it purports or is represented to possess.

(d) Mixture with or substitution of another substance: If it is a drug and any substance has been (1) mixed or packed therewith so as to reduce its quality or strength or (2) substituted wholly or in part therefor.

§ 72. Misbranded drugs and devices

A drug or device is deemed to be misbranded—

(a) False or misleading labeling: If its labeling is false or misleading in any particular.

(b) Package form; contents of label: If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count. Under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary.

(c) Prominence of information on label: If any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statement, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(d) Habit-forming substance: If it is for use by man and contains any quantity of the narcotic or hypnotic substance alpha eucaine, barbituric acid, betaeucaine, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, marihuana, morphine, opium, paraldehyde, peyote, or sulphomethane; or any chemical derivative of such substance, which derivative the Secretary, after investigation, finds to be, and by regulations designates as, habit forming; unless its label bears the name and quantity or proportion of such substance or derivative and in juxtaposition therewith the statement "Warning—May be habit forming."

(e) Designation of drug by name not in compendium: If it is a drug not designated solely by a name recognized in an official compendium unless its label bears (1) the common or usual name of the drug, if such there be; and (2), in case it is fabricated from two or more ingredients, the common or usual name of each active ingredient, including the quantity, kind, and proportion of any alcohol, and also including, whether active or not, the name and quantity or proportion of any bromides, ether, chloroform, acetanilid, acetphenetidin, amidopyrine, antipyrine, atropine, hyosine, hyoscyamine, arsenic, digitalis, digitalis glucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or any derivative or preparation of any such substances, contained therein. The Secretary shall promulgate regulations establishing exemptions to the extent that compliance with the requirements of clause (2) of this paragraph is impracticable.

(f) Directions for use and warnings on label: Unless its labeling bears (1) adequate directions for use; and (2) adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage

or methods or duration of administration or application, in such manner and form as are necessary for the protection of users. Where any requirement of clause (1) of this paragraph, as applied to any drug or device, is not necessary for the protection of the public health, the Secretary shall promulgate regulations exempting such drug or device from such requirement.

(g) Representation as recognized drug; packing and labeling: If it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed therein. The Secretary may consent to a modification of the method of packing. A drug recognized in both the United States Pharmacopœia and the Homœopathic Pharmacopœia of the United States shall be subject to the requirements of the United States Pharmacopœia with respect to packaging and labeling unless it is labeled and offered for sale as a homœopathic drug, in which case it shall be subject to the provisions of the Homœopathic Pharmacopœia of the United States.

(h) Deteriorative drugs; packing and labeling: If it has been found by the Secretary to be a drug liable to deterioration, unless it is packaged in such form and manner, and its label bears a statement of such precautions, as the Secretary by regulations requires as necessary for the protection of the public health. The Secretary shall not establish such a regulation for any drug recognized in an official compendium until the Secretary has informed the body charged with the revision of such compendium of the need for such packaging or labeling requirements and such body has failed within a reasonable time to prescribe such requirements.

(i) Drug; misleading container; imitation; offer for sale under another name: (1) If it is a drug and its container is so made, formed, or filled as to be misleading; or (2) if it is an imitation of another drug; or (3) if it is offered for sale under the name of another drug.

(j) Health-endangering when used as prescribed: If it is dangerous to health when used in the dosage, or with the frequency or duration prescribed, recommended, or suggested in the labeling thereof.

(k) Insulin not properly certified: If it is, or purports to be, or is represented as a drug composed wholly or partly of insulin, unless (1) it is from a batch with respect to which a certificate or release has been issued pursuant to section 76 of this title, and (2) such certificate or release is in effect with respect to such drug.

(l) Other drugs not properly certified: If it is, or purports to be, or is represented as a drug composed wholly or partly of any kind of penicillin, streptomycin, chlortetracycline, chloramphenicol, or bacitracin, or any derivative thereof, unless (1) it is from a batch with respect to which a certificate or release has been issued pursuant to section 77 of this title, and (2) such certificate or release is in effect with respect to such drug. This subsection does not apply to any drug or class of drugs exempted by regulations promulgated under section 77 (c) or (d) of this title.

§ 73. Exemptions

(a) The Secretary shall promulgate regulations exempting from any labeling or packing requirement of this chapter drugs and devices which are, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such drugs and devices are not adulterated or misbranded under the provisions of this chapter upon removal from such processing, labeling, or repacking establishment.

(b) (1) A drug intended for use by man which—

(A) is a habit-forming drug to which section 72 (d) of this title applies; or

(B) because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measure necessary to its use, is not safe for use except under the supervision of a practitioner licensed by law to administer such drug; or

(C) is limited by an effective application under section 75 of this title to use under the professional supervision of a practitioner licensed by law to administer such drug,

shall be dispensed only (i) upon a written prescription of a practitioner licensed by law to administer such drug, or (ii) upon an oral prescription of such practitioner which is reduced promptly to writing and filed by the pharmacist, or (iii) by refilling any such written or oral prescription if such refilling is authorized by the prescriber either in the original prescription or by oral order which is reduced promptly to writing and filed by the pharmacist. The act of dispensing a drug contrary to the provisions of this paragraph is deemed to be an act which results in the drug being misbranded while held for sale.

(2) A drug dispensed by filling or refilling a written or oral prescription of a practitioner licensed by law to administer such drug is exempt from the requirements of section 72 of this title, except paragraphs (a), (i) (2) and (3), (k) and (l) of such section, and the packaging requirements of paragraphs (g) and (h) of such section, if the drug bears a label containing the name and address of the dispenser, the serial number and date of the prescription or of its filing, the name of the prescriber, and, if stated in the prescription, the name of the patient, and the directions for use and cautionary statements, if any, contained in such prescription. This exemption does not apply to any drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail, or to a drug dispensed in violation of paragraph (1) of this subsection.

(3) The Secretary may by regulation remove drugs subject to sections 72 (d) and 75 of this title from the requirements of paragraph (1) of this subsection when such requirements are not necessary for the protection of the public health.

(4) A drug which is subject to paragraph (1) of this subsection is deemed to be misbranded if at any time prior to dispensing its label fails to bear the statement "Caution: Federal law prohibits dispensing without prescription." A drug to which paragraph (1) of this subsection does not apply is deemed to be misbranded if at any time prior to dispensing its label bears the caution statement quoted in the first sentence of this paragraph.

(5) Nothing in this subsection shall be construed to relieve any person from any requirement prescribed by or under authority of law with respect to drugs now included or which may hereafter be included within the classifications stated in section 3220 of the Internal Revenue Code, or to marihuana as defined in section 3238 (b) of the Internal Revenue Code.

§ 74. Certification of coal-tar colors for drugs

The Secretary shall promulgate regulations providing for the listing of coal-tar colors which are harmless and suitable for use in drugs for purposes of coloring only and for the certification of batches of such colors, with or without harmless diluents.

§ 75. New drugs

(a) Necessity of effective application: No person shall introduce or deliver for introduction into interstate commerce, any new drug, unless an application filed pursuant to subsection (b) of this section is effective with respect to such drug.

(b) Filing application: Any person may file with the Secretary an application with respect to any drug subject to subsection (a) of this section, which application shall include (1) full reports of investigations

which have been made to show whether such drug is safe for use; (2) a full list of the articles used as components of such drug; (3) a full statement of the composition of such drug; (4) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such drug; (5) samples of such drug and of the articles used as components thereof as the Secretary may require; and (6) specimens of the labeling proposed to be used for such drug.

(c) Effective date of application: An application provided for in subsection (b) of this section shall become effective on the sixtieth day after the filing thereof unless prior to such day the Secretary by written notice to the applicant postpones the effective date of the application to such time, not more than one hundred and eighty days after the filing thereof, as he deems necessary to enable him to study and investigate the application.

(d) Grounds for refusing application to become effective: Prior to the effective date of the application, the Secretary shall issue an order refusing to permit the application to become effective if he finds, after due notice to the applicant and giving him an opportunity for a hearing, that (1) the investigations reported pursuant to subsection (b) of this section do not include adequate tests by all methods reasonably applicable to show whether such drug is safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof; (2) the results of such tests show that such drug is unsafe for use under such conditions or do not show that such drug is safe for use under such conditions; (3) the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such drug are inadequate to preserve its identity, strength, quality, and purity; or (4) upon the basis of the information submitted to him as part of the application, or other information before him with respect to such drug, he has insufficient information to determine whether such drug is safe for use under such conditions.

(e) Suspension of effectiveness of application: The Secretary shall order the suspension of the effectiveness of an application with respect to any drug after due notice and opportunity for hearing to the applicant, if he finds (1) that clinical experience, tests by new methods, or tests by methods not deemed reasonably applicable when such application became effective show that such drug is unsafe for use under the conditions of use upon the basis of which the application became effective, or (2) that the application contains any untrue statement of a material fact. The order shall state the findings upon which it is based.

(f) Revocation of order refusing effectiveness: When the Secretary finds that the facts so require he shall revoke an order refusing to permit an application with respect to a drug to become effective.

(g) Service of orders: Orders of the Secretary issued under this section shall be served (1) in person by any officer or employee of the Department designated by the Secretary or (2) by registered mail addressed to the applicant or respondent at his last-known address in the records of the Secretary.

(h) Appeal from order: The applicant may appeal from an order of the Secretary refusing to permit the application to become effective, or suspending the effectiveness of the application by filing in the United States district court within any district wherein such applicant resides or has his principal place of business, or in the United States District Court for the District of Columbia, within 60 days after the entry of the order, a written petition praying that the order of the Secretary be set aside. The applicant

shall serve a copy of the petition forthwith upon the Secretary, or upon any officer designated by him for that purpose, and thereupon the Secretary shall certify and file in the court a transcript of the record upon which the order complained of was entered. Upon the filing of such transcript the court shall have exclusive jurisdiction to affirm or set aside such order. The court shall not consider an objection to the order of the Secretary unless such objection was urged before the Secretary or unless there were reasonable grounds for failure so to do. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive. If any person applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence to be taken before the Secretary and to be adduced upon the hearing in such manner and upon such terms and conditions as the court seems proper. The Secretary may modify his findings as to the facts by reason of the additional evidence so taken, and he shall file with the court such modified findings which, if supported by substantial evidence, shall be conclusive, and his recommendations, if any, for the setting aside of the original order. The judgment and decree of the court affirming or setting aside any such order of the Secretary shall be final, subject to review as provided in sections 1254 and 1291-1294 of title 28. The commencement of proceedings under this subsection shall not, unless specifically ordered by the court to the contrary, operate as a stay of the Secretary's order.

(i) Exemption of drugs for research: The Secretary shall promulgate regulations for exempting from the operation of this section drugs intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety of drugs.

§ 76. Certification of drugs containing insulin

(a) The Secretary, pursuant to regulations promulgated by the Secretary, shall provide for the certification of batches of drugs composed wholly or partly of insulin. A batch of any such drug shall be certified only if such drug has such characteristics of identity and such batch has such characteristics of strength, quality, and purity, as the Secretary prescribes in such regulations as necessary adequately to insure safety and efficacy of use. Prior to the effective date of such regulations the Secretary, in lieu of certification, shall issue a release for any batch which, in his judgment, may be released without risk as to the safety and efficacy of its use. Such release shall prescribe the date of its expiration and other conditions under which it shall cease to be effective as to such batch and as to portions thereof.

(b) Regulations providing for such certifications shall contain such provisions as are necessary to carry out the purposes of this section, including provisions prescribing (1) standards of identity and of strength, quality, and purity; (2) tests and methods of assay to determine compliance with such standards; (3) effective periods for certificates, and other conditions under which they shall cease to be effective as to certified batches and as to portions thereof; (4) administration and procedure; and (5) such fees, specified in such regulations, as are necessary to provide, equip, and maintain an adequate certification service. Such regulations shall prescribe no standard of identity or of strength, quality, or purity for any drug different from the standard of identity, strength, quality, or purity set forth for such drug in an official compendium.

(c) Such regulations, insofar as they prescribe tests or methods of assay to determine strength, quality, or purity of any drug, different from the tests or methods of assay set forth for such drug in an official compendium, shall be prescribed, after notice and opportunity for revision of such compendium, in the manner provided in the second sentence of section 71 (b) of this title. The provisions of subsections (e), (f), and (g) of section 131 of this title shall be applicable to such portion of any regulation as prescribes any such different test or method, but shall not be applicable to any other portion of any such regulation.

§ 77. Certification of drugs containing certain antibiotics

(a) Regulations for certification: The Secretary, pursuant to regulations promulgated by the Secretary, shall provide for the certification of batches of drugs composed wholly or partly of any kind of penicillin, streptomycin, chlortetracycline, chloramphenicol, or bacitracin, or any derivative of any of them. A batch of any such drug shall be certified only if such drug has such characteristics of identity and such batch has such characteristics of strength, quality, and purity, as the Secretary prescribes in such regulations as necessary adequately to insure safety and efficacy of use. Prior to the effective date of such regulations the Secretary, in lieu of certification, shall issue a release for any batch which, in the Secretary's judgment, may be released without risk as to the safety and efficacy of its use. Such release shall prescribe the date of its expiration and other conditions under which it shall cease to be effective as to such batch and as to portions thereof.

(b) Provisions of regulations: Regulations providing for such certifications shall contain such provisions as are necessary to carry out the purposes of this section, including provisions prescribing (1) standards of identity and of strength, quality, and purity; (2) tests and methods of assay to determine compliance with such standards; (3) effective periods for certificates, and other conditions under which they shall cease to be effective as to certified batches and as to portions thereof; (4) administration and procedure; and (5) such fees, specified in such regulations, as are necessary to provide, equip, and maintain an adequate certification service. Such regulations shall prescribe only such tests and methods of assay as will provide for certification or rejection within the shortest time consistent with the purposes of this section.

(c) Exemption of drugs not involving safety and efficacy of use: Whenever in the judgment of the Secretary, the requirements of this section and of section 72 (1) of this title with respect to any drug or class of drugs are not necessary to insure safety and efficacy of use, the Secretary shall promulgate regulations exempting such drug or class of drugs from such requirements.

(d) Other exemptions: The Secretary shall promulgate regulations exempting from any requirement of this section and of section 72 (1) of this title, (1) drugs which are to be stored, processed, labeled, or repacked at establishments other than those where manufactured, on condition that such drugs comply with all such requirements upon removal from such establishments; (2) drugs which conform to applicable standards of identity, strength, quality, and purity prescribed by these regulations and are intended for use in manufacturing other drugs; and (3) drugs which are intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety and efficacy of drugs.

(e) Application of other sections; determination of compliance: No drug which is subject to this section shall be subject to section 75 of this title. Compliance of any drug subject to this section or to section 72 (1)

of this title with sections 71 (b) and 72 (g) of this title shall be determined by the application of the standards of strength, quality, and purity, the tests and methods of assay, and the requirements of packaging and labeling, respectively, prescribed by regulations promulgated under this section.

(f) Procedure for issuance, amendment, or repeal of regulations: Any interested person may file with the Secretary a petition proposing the issuance, amendment, or repeal of any regulation contemplated by this section. The petition shall set forth the proposal in general terms and shall state reasonable grounds therefor. The Secretary shall give public notice of the proposal and an opportunity for all interested persons to present their views thereon, orally or in writing, and as soon as practicable thereafter shall make public the Secretary's action upon such proposal. At any time prior to the 30th day after such action is made public any interested person may file objections to such action, specifying with particularity the changes desired, stating reasonable grounds therefor, and requesting a public hearing upon such objections. The Secretary shall thereupon, after due notice, hold such public hearing. As soon as practicable, after completion of the hearing, the Secretary shall by order make public the Secretary's action on such objections. The order shall be based only on substantial evidence of record at the hearing and shall include detailed findings of fact on which it is based. The order shall be subject to the provisions of section 131 (f) and (g) of this title.

Subchapter IV—Cosmetics

§ 91. Adulterated cosmetics

A cosmetic is deemed to be adulterated—

(a) If it bears or contains any poisonous or deleterious substance which may render it injurious to users under the conditions of use prescribed in the labeling thereof, or under such conditions of use as are customary or usual. This provision does not apply to coal-tar hair dye, the label of which bears the following legend conspicuously displayed thereon: "Caution—This product contains ingredients which may cause skin irritation on certain individuals and a preliminary test according to accompanying directions should first be made. This product must not be used for dyeing the eyelashes or eyebrows; to do so may cause blindness.", and the labeling of which bears adequate directions for such preliminary testing. For the purposes of this paragraph and paragraph (e) of this section the term "hair dye" does not include eyelash dyes or eyebrow dyes.

(b) If it consists in whole or in part of any filthy, putrid, or decomposed substance.

(c) If it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health.

(d) If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

(e) If it is not a hair dye and it bears or contains a coal-tar color other than one from a batch that has been certified in accordance with regulations as provided by section 94 of this title.

§ 92. Misbranded cosmetics

A cosmetic is deemed to be misbranded—

(a) If its labeling is false or misleading in any particular.

(b) If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count. Under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be

established, by regulations prescribed by the Secretary.

(c) If any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(d) If its container is so made, formed, or filled as to be misleading.

§ 93. Exemptions

The Secretary shall promulgate regulations exempting from any labeling requirement of this chapter cosmetics which are, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such cosmetics are not adulterated or misbranded under the provisions of this chapter upon removal from such processing, labeling, or repacking establishment.

§ 94. Certification of coal-tar colors for cosmetics

The Secretary shall promulgate regulations providing for the listing of coal-tar colors which are harmless and suitable for use in cosmetics and for the certification of batches of such colors, with or without harmless diluents.

Subchapter V—Imports and Exports

§ 111. Examination and refusal of imports

(a) The Secretary of the Treasury shall deliver to the Secretary of Health, Education, and Welfare, upon the latter Secretary's request, samples of food, drugs, devices, and cosmetics which are being imported or offered for import into the United States, giving notice thereof to the owner or consignee, who may appear before the Secretary of Health, Education, and Welfare and have the right to introduce testimony. If it appears from the examination of such samples or otherwise that the article (1) has been manufactured, processed, or packed under insanitary conditions, or (2) is forbidden or restricted in sale in the country in which it was produced or from which it was exported, or (3) adulterated, misbranded, or in violation of section 75 of this title, the Secretary of the Treasury shall refuse to admit the article, except as provided in subsection (b) of this section. He shall cause the destruction of any such article refused admission unless it is exported, under regulations prescribed by him, within 90 days of the date of notice of such refusal or within such additional time permitted pursuant to such regulations. This subsection does not prohibit the admission of narcotic drugs the importation of which is permitted under section 763 of this title.

(b) Pending decision as to the admission of an article being imported or offered for import, the Secretary of the Treasury may authorize delivery of such article to the owner or consignee upon the execution by him of a good and sufficient bond providing for the payment of such liquidated damages in the event of default as may be required pursuant to regulations of the Secretary of the Treasury. If it appears to the Secretary of Health, Education, and Welfare that an article included within the provisions of clause (3) of subsection (a) of this section can, by relabeling or other action, be brought into compliance with this chapter or rendered other than a food, drug, device, or cosmetic, the Secretary of the Treasury may defer final determination as to admission of such article and, upon filing of timely written application by the owner or consignee and the execution by him of a bond as provided in the preceding provisions of this subsection, the Secretary of Health, Education, and Welfare

may, in accordance with regulations, authorize the applicant to perform such relabeling or other action specified in such authorization (including destruction or export of rejected articles or portions thereof, as may be specified in the latter Secretary's authorization). All such relabeling or other action pursuant to such authorization shall in accordance with regulations be under the supervision of an officer or employee of the Department of Health, Education, and Welfare designated by the Secretary of that Department, or an officer or employee of the Department of the Treasury designated by the Secretary of the Treasury.

(c) The owner or consignee shall pay all expenses, including travel, per diem or subsistence, and salaries of officers or employees of the United States, determined in accordance with regulations, in connection with the destruction provided for in subsection (a) of this section and the supervision of the relabeling or other action authorized under subsection (b) of this section, and all expenses in connection with the storage, cartage, or labor with respect to any article refused admission under subsection (a) of this section. In default of payment, expenses specified in this subsection shall constitute a lien against any future importations made by such owner or consignee.

§ 112. Exports adulterated or misbranded

A food, drug, device, or cosmetic intended for export is not deemed to be adulterated or misbranded under this chapter if it (a) accords to the specifications of the foreign purchaser, (b) is not in conflict with the laws of the country to which it is intended for export, and (c) is labeled on the outside of the shipping package to show that it is intended for export. Such article sold or offered for sale in domestic commerce, is not exempt from any of the provisions of this chapter.

§ 113. Suspension of adulterated imports

Whenever the President is satisfied that there is good reason to believe that any importation is being made, or is about to be made, into the United States, from any foreign country, of any article used for human food or drink that is adulterated to an extent dangerous to the health or welfare of the people of the United States, or any of them, he may issue his proclamation suspending the importation of such articles from such country for such period of time as he believes necessary to prevent such importation. During such period no person shall import any of such articles into the United States from the countries designated in the proclamation of the President.

Subchapter VI—Administrative Provisions

§ 131. Regulations; hearings; judicial review

(a) Regulations authorized: The Secretary may promulgate regulations for the efficient enforcement of this chapter, except as otherwise provided in this section.

(b) Imports and exports: The Secretary of the Treasury and the Secretary of Health, Education, and Welfare shall jointly prescribe regulations for the efficient enforcement of the provisions of section 111 and 112 of this title, except as otherwise provided therein, in such manner and to take effect at such time, after due notice, as the Secretary of Health, Education, and Welfare determines.

(c) Conduct of hearings: The Secretary or such officer or employee as he designates shall conduct the hearings authorized or required by this chapter.

(d) Standards of identity in other laws: The definitions and standards of identity promulgated in accordance with the provisions of this chapter shall be effective for the purposes of the enforcement of this chapter, notwithstanding such definitions and standards as may be contained in other

laws of the United States and regulations promulgated thereunder.

(e) Hearings on regulations: The Secretary, on his own initiative or upon an application of any interested industry or substantial portion thereof stating reasonable grounds therefor, shall hold a public hearing upon a proposal to issue, amend, or repeal any regulation contemplated by sections 53 (j), 55 (a), 55 (b), 57 (a), 71 (b), 72 (d), 72 (h), 74, and 94 of this title.

The Secretary shall give appropriate notice of the hearing, setting forth the proposal in general terms and specifying the time and place for the hearing not less than 30 days after the date of the notice, except that the public hearing on regulations under section 57 (a) of this title may be held within a reasonable time, to be fixed by the Secretary, after notice thereof. At the hearing any interested person may be heard in person or by his representative. As soon as practicable after completion of the hearing, the Secretary shall by order make public his action in issuing, amending, or repealing the regulation or determining not to take such action. Such order shall be based only on substantial evidence of record at the hearing and shall include detailed findings of fact on which it is based. No such order shall take effect prior to the 90th day after it is issued, except that if the Secretary finds that emergency conditions exist necessitating an earlier effective date, then the Secretary shall specify in the order the Secretary's findings as to such conditions and the order shall take effect at such earlier date as the Secretary specifies.

(f) Judicial review: (1) In a case of actual controversy as to the validity of any order under subsection (e) of this section, any person who will be adversely affected by such order if placed in effect may at any time prior to the 90th day after such order is issued file a petition with the United States Court of Appeals for the circuit wherein such person resides or has his principal place of business, for a judicial review of such order. The summons and petition may be served at any place in the United States. The Secretary, promptly upon service of the summons and petition, shall certify and file in the court the transcript of the proceedings and the record on which the Secretary based the order.

(2) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence, and evidence in rebuttal thereof, to be taken before the Secretary, and to be adduced upon the hearing, in such manner and upon such terms and conditions as the court deems proper. The Secretary may modify the Secretary's findings as to the facts, or make new findings, by reason of the additional evidence so taken, and file such modified or new findings, and the Secretary's recommendation, if any, for the modification or setting aside of the Secretary's original order, with the return of such additional evidence.

(3) The court may affirm the order, or set it aside in whole or in part, temporarily, or permanently. If the order of the Secretary refuses to issue, amend, or repeal a regulation, and such order is not in accordance with law, the court shall, by its judgment, order the Secretary to take action, with respect to such regulation, in accordance with law. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive.

(4) The judgment of the court affirming or setting aside, in whole or in part, any such order of the Secretary, shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(5) Any action instituted under this subsection shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

(6) The remedies provided for in this subsection shall be in addition to, and not in substitution for, any other remedies provided by law. Nothing in this section shall be deemed to waive or deny any right otherwise accorded by the Administrative Procedure Act, and such act shall continue to apply to all activities of the Food and Drug Administration.

(g) Copies of records of hearings: The Secretary shall furnish a certified copy of the transcript of the record and proceedings under subsection (e) of this section to any interested party at his request, on payment of the costs thereof. Such copy shall be admissible in any criminal, libel for condemnation, exclusion of imports, or other proceeding arising under or in respect to this chapter, irrespective of whether proceedings with respect to the order have previously been instituted or become final under subsection (f) of this section.

§ 132. Examinations and investigations

(a) The Secretary may conduct examinations and investigations for the purposes of this chapter through officers and employees of the Department or through any health, food, or drug officer or employee of any State, Territory, or political subdivision thereof, duly commissioned by the Secretary as an officer of the Department. In the case of food packed in a Territory, the Secretary shall attempt to make inspection of such food at the first point of entry within the United States when, in his opinion and with due regard to the enforcement of all the provisions of this chapter, the facilities at his disposal will permit of such inspection. For the purposes of this subsection, the term "United States" means the States and the District of Columbia.

(b) Where a sample of a food, drug, or cosmetic is collected for analysis under this chapter, the Secretary shall, upon request, provide a part of such official sample for examination or analysis by any person named on the label of the article, or the owner thereof, or his attorney or agent; except that the Secretary may, by regulations, make such reasonable exceptions from, and impose such reasonable terms and conditions relating to, the operation of this subsection as he finds necessary for the proper administration of the provisions of this chapter.

(c) For purposes of enforcement of this chapter, records of any department or independent establishment in the executive branch of the Government shall be open to inspection by any official of the Department of Health, Education, and Welfare authorized by the Secretary to make such inspection.

§ 133. Records of interstate shipment

For the purpose of enforcing the provisions of this chapter, carriers engaged in interstate commerce, and persons receiving food, drugs, devices, or cosmetics in interstate commerce or holding such articles so received, shall, upon the request of an officer or employee duly designated by the Secretary, permit him, at reasonable times, to have access to and to copy all records showing the movement in interstate commerce of any food, drug, device, or cosmetic, or the holding thereof during or after such movement, and the quantity, shipper, and consignee thereof. It shall be unlawful for any such carrier or person to fail to permit such access to and copying of any such record so requested when such request is accompanied by a statement in writing specifying the nature or kind of food, drug, device, or cosmetic to which such request relates. Evidence obtained under this section shall not be used in a criminal prosecution of the person from whom it is obtained.

Carriers shall not be subject to the other provisions of this chapter by reason of their

receipt, carriage, holding, or delivery of food, drugs, devices, or cosmetics in the usual course of business as carriers.

§ 134. Factory inspection; notice; reports; receipts for samples; copies of analyses

(a) For purposes of enforcement of this chapter, officers or employees duly designated by the Secretary, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, are authorized (1) enter, at reasonable times, any factory, warehouse, or establishment in which food, drugs, devices, or cosmetics are manufactured, processed, packed, or held, for introduction into interstate commerce or are held after such introduction, or enter any vehicle being used to transport or hold such food, drugs, devices, or cosmetics in interstate commerce; and (2) inspect, at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, establishment, or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling therein. A separate notice shall be given for each such inspection, but a notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness.

(b) Upon completion of any such inspection of a factory, warehouse, or other establishment, and prior to leaving the premises, the officer or employee making the inspection shall give to the owner, operator, or agent in charge a report in writing setting forth any conditions or practices observed by him which, in his judgment, indicate that any food, drug, device, or cosmetic in such establishment (1) consists in whole or in part of any filthy, putrid, or decomposed substance, or (2) has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health. A copy of such report shall be sent promptly to the Secretary.

(c) If the officer or employee making any such inspection of a factory, warehouse, or other establishment has obtained any sample in the course of the inspection, upon completion of the inspection and prior to leaving the premises he shall give to the owner, operator, or agent in charge a receipt describing the samples obtained.

(d) Whenever in the course of any such inspection of a factory or other establishment where food is manufactured, processed, or packed, the officer or employee making the inspection obtains a sample of any such food, and analysis is made of such sample for the purpose of ascertaining whether such food consists in whole or in part of any filthy, putrid, or decomposed substance, or is otherwise unfit for food, a copy of the results of such analysis shall be furnished promptly to the owner, operators, or agent in charge.

§ 135. Publicity

(a) The Secretary shall cause to be published from time to time reports summarizing all judgments, decrees, and court orders rendered under this chapter, including the nature of the charge and the disposition thereof.

(b) The Secretary may also cause to be disseminated information regarding food, drugs, devices, or cosmetics in situations involving, in the Secretary's opinion, imminent danger to health or gross deception of the consumer. Nothing in this section shall be construed to prohibit the Secretary from collecting, reporting, and illustrating the results of the investigations of the Department.

§ 136. Cost of certification of coal-tar colors

The admitting to listing and certification of coal-tar colors, in accordance with regulations prescribed under this chapter, shall be performed only upon payment of fees

specified in such regulations, as may be necessary to provide, maintain, and equip an adequate service for such purposes.

§ 137. Revision of Pharmacopeia; development of analyses and tests

The Secretary, in carrying into effect the provisions of this chapter, may cooperate with associations and scientific societies in the revision of the United States Pharmacopeia and in the development of methods of analysis and mechanical and physical tests necessary to carry out the work of the Food and Drug Administration.

Subchapter VII—Enforcement and Penalties

§ 151. Prohibited acts

The following acts and the causing thereof are prohibited:

(a) The introduction or delivery for introduction into interstate commerce of any food, drug, device, or cosmetic that is adulterated or misbranded.

(b) The adulteration or misbranding of any food, drug, device, or cosmetic in interstate commerce.

(c) The receipt in interstate commerce of any food, drug, device, or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise.

(d) The introduction or delivery for introduction into interstate commerce of any article in violation of section 57 or 75 of this title.

(e) The refusal to permit access to or copying of any record as required by section 133 of this title.

(f) The refusal to permit entry or inspection as authorized by section 134 of this title.

(g) The manufacture within any Territory of any food, drug, device, or cosmetic that is adulterated or misbranded.

(h) The giving of a guaranty or undertaking referred to in section 152 (c) (2) of this title which is false, except by a person who relied upon a guaranty or undertaking to the same effect signed by, and containing the name and address of, the person residing in the United States from whom he received in good faith the food, drug, device, or cosmetic; or the giving of a guaranty or undertaking referred to in section 152 (c) (3) of this title which guaranty or undertaking is false.

(i) Forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp, tag, label, or other identification device authorized or required by regulations promulgated under the provisions of sections 55 (b), 57, 58, 74, 76, 77, or 94 of this title.

(j) The using by any person to his own advantage, or revealing, other than to the Secretary or officers or employees of the Department, or to the courts when relevant in any judicial proceeding under this chapter, any information acquired under authority of sections 57, 75, 76, 77, or 134 of this title concerning any method or process which as a trade secret is entitled to protection.

(k) The alteration, mutilation, destruction, obligation, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to, a food, drug, device, or cosmetic, if such act is done while such article is held for sale (whether or not the first sale) after shipment in interstate commerce and results in such article being adulterated or misbranded.

(l) The using, on the labeling of any drug or in any advertising relating to such drug, of any representation or suggestion that an application with respect to such drug is effective under section 75 of this title, or that such drug complies with the provisions of such section.

(m) The sale or offering for sale of colored oleomargarine or colored margarine, or the possession or serving of colored oleomargarine or colored margarine in violation of subsection (b) or (c) of section 60 of this title.

(n) The using, in labeling, advertising, or other sales promotion, of any reference to any report or analysis furnished in compliance with section 134 of this title.

§ 152. Penalties; exemptions

(a) Any person who violates any of the provisions of section 151 of this title shall be imprisoned not more than 1 year or fined not more than \$1,000, or both. Any person who commits such a violation after one conviction under this section has become final shall be imprisoned not more than 3 years or fined not more than \$10,000, or both.

(b) Notwithstanding the provisions of subsection (a) of this section, any person who violates any of the provisions of section 151 of this title, with intent to defraud or mislead, shall be imprisoned not more than 3 years or fined not more than \$10,000, or both.

(c) No person shall be subject to the penalties of subsection (a) of this section—

(1) for having received in interstate commerce any article and delivered it or proffered delivery of it, if such delivery or proffer was made in good faith, unless he refuses to furnish on request of an officer or employee duly designated by the Secretary the name and address of the person from whom he purchased or received such article and copies of all documents, if any, pertaining to the delivery of the article to him; or

(2) for having violated section 151 (a) or 151 (d) of this title, if he establishes a guaranty or understanding signed by, and containing the name and address of, the person residing in the United States from whom he received the article in good faith, to the effect in case of an alleged violation of section 151 (a) of this title, that such article is not adulterated or misbranded, within the meaning of this chapter, designating this chapter, or to the effect, in case of an alleged violation of section 151 (d) of this title, that such article is not an article which may not, under the provisions of section 57 or 75 of this title, be introduced into interstate commerce; or

(3) for having violated section 151 (a) of this title, where the violation exists because the article is adulterated by reason of containing a coal-tar color not from a batch certified in accordance with the Secretary's regulations, if such person establishes a guaranty or undertaking signed by, and containing the name and address of, the manufacturer of the coal-tar color, to the effect that such color was from a batch certified in accordance with the applicable regulations promulgated by the Secretary under this chapter; or

(4) for having violated section 151 (b), 151 (c), or 151 (k) of this title by failure to comply with section 72 (f) of this title in respect to an article received in interstate commerce to which neither section 73 (a) nor section 73 (b) (1) is applicable, if the delivery or proffered delivery was made in good faith and the labeling at the time thereof contained the same directions for use and warning statements as were contained in the labeling at the time of such receipt of such article.

§ 153. Injunctions

(a) The United States district courts and the United States courts of the Territories shall have jurisdiction, for cause shown, and subject to the provisions of Rule 65 (a) (b) of the Federal Rules of Civil Procedure, to restrain violations of section 151 of this title, except paragraphs (e), (f), (h), (i), and (j), thereof.

(b) Any violation of an injunction or restraining order issued under this section, which also constitutes a violation of this chapter, shall be tried by the court, or, upon demand of the accused, by a jury, in accordance with the practice and procedure applicable in the case of proceedings subject to the provisions of section 402 of Title 18.

§ 154. Libel for condemnation

(a) Grounds and jurisdiction: Any article of food, drug, device, or cosmetic that is adulterated or misbranded when introduced into or while in interstate commerce or while held for sale (whether or not the first sale) after shipment in interstate commerce, or which may not, under the provisions of section 57 or 75 of this title, be introduced into interstate commerce, shall be liable to be proceeded against while in interstate commerce, or at any time thereafter, on libel of information and condemned in any district court of the United States within the jurisdiction of which the article is found.

(b) Procedure: The article shall be liable to seizure by process pursuant to the libel, and the procedure in cases under this section shall conform, as nearly as may be, to the procedure in admiralty; except that on demand of either party any issue of fact joined in any such case shall be tried by jury.

(c) (1) Libels for misbranding limited; change of venue: No libel for condemnation for any alleged misbranding shall be instituted under this chapter, if there is pending in any court a libel for condemnation proceeding under this chapter based upon the same alleged misbranding, and not more than one such proceeding shall be instituted if no such proceeding is so pending, except that such limitations shall not apply—

(A) when such misbranding has been the basis of a prior judgment in favor of the United States, in a criminal, injunction, or libel for condemnation proceeding under this chapter, or

(B) when the Secretary has probable cause to believe from facts found, without hearing, by him or any officer or employee of the Department that the misbranded article is dangerous to health.

(2) In any case where the number of libel for condemnation proceedings is limited as above provided the proceeding pending or instituted shall, on application of the claimant, seasonably made, be removed for trial to any district agreed upon by stipulation between the parties, or, in case of failure to so stipulate within a reasonable time, the claimant may apply to the court of the district in which the seizure has been made, and such court, after giving the United States attorney for such district reasonable notice and opportunity to be heard, shall by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the claimant's principal place of business, to which the case shall be removed for trial.

(d) Consolidation of multiple proceedings: When libel for condemnation proceedings under this section, involving the same claimant and the same issues of adulteration or misbranding, are pending in 2 or more jurisdictions, such pending proceedings, upon application of the claimant seasonably made to the court of 1 such jurisdiction, shall be consolidated for trial by order of such court, and tried in (1) any district selected by the claimant where 1 of such proceedings is pending; or (2) a district agreed upon by stipulation between the parties. If no order for consolidation is so made within a reasonable time, the claimant may apply to the court of one such jurisdiction, and such court, after giving the United States attorney for such district reasonable notice and opportunity to be heard, shall by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the claimant's principal place of business, in which all such pending proceedings shall be consolidated for trial and tried. Such order of consolidation shall not apply so as to require the removal of any case the date for trial of which has been fixed. The court granting such order shall give prompt notification thereof to the other courts having jurisdiction of the cases covered thereby.

(e) Removal for trial: In the case of removal for trial of any case as provided by subsection (c) or (d) of this section—

(1) The clerk of the court from which removal is made shall promptly transmit to the court in which the case is to be tried all records in the case necessary in order that such court may exercise jurisdiction.

(2) The court to which such case is removed shall have the powers and be subject to the duties, for purposes of the case, which the court from which removal is made would have, or to which such court would be subject, if such case is not removed.

(f) Samples of seized goods: The court at any time after seizure up to a reasonable time before trial shall by order allow any party to a condemnation proceeding, his attorney or agent, to obtain a representative sample of the article seized and a true copy of the analysis, if any, on which the proceeding is based and the identifying marks or numbers, if any, of the packages from which the samples analyzed were obtained.

(g) Disposition after condemnation: Any food, drug, device, or cosmetic condemned under this section shall, after entry of the decree, be disposed of by destruction or sale as the court may direct in accordance with the provisions of this section. If sold, the proceeds thereof, less the legal costs and charges, shall be paid into the Treasury of the United States. Such article shall not be sold under such decree contrary to the provisions of this chapter or the laws of the jurisdiction in which sold. After entry of the decree and upon the payment of the costs of such proceedings and the execution of a good and sufficient bond conditioned that such article shall not be sold or disposed of contrary to the provisions of this chapter or the laws of any State or Territory in which sold, the court may by order direct that such article be delivered to the owner thereof to be destroyed or brought into compliance with the provisions of this chapter under the supervision of an officer or employee duly designated by the Secretary, and the expenses of such supervision shall be paid by the person obtaining release of the article under bond. Any article condemned by reason of its being an article which may not, under section 56 or 75 of this title, be introduced into interstate commerce, shall be disposed of by destruction.

(h) Costs: When a decree of condemnation is entered against the article, court costs and fees, and storage and other proper expenses, shall be awarded against the person, if any, intervening as claimant of the article.

§ 155. Hearing before violation reported

Before any violation of this chapter is reported by the Secretary to any United States attorney for institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his views, either orally or in writing, with regard to such contemplated proceeding.

§ 156. Report of minor violations

Nothing in this chapter shall be construed as requiring the Secretary to report for prosecution, or for the institution of libel or injunction proceedings, minor violations of this chapter whenever the Secretary believes that the public interest will be adequately served by a suitable written notice or warning.

§ 157. Proceedings in name of United States; subpoenas

All proceedings for the enforcement, or to restrain violations, of this chapter shall be by and in the name of the United States. Subpoenas for witnesses who are required to attend a court of the United States, in any district, may run into any other district in any such proceeding.

Chapter 5—Milk and cream

Subchapter I—Importation of Milk and Cream

Sec.

201. Definitions.

202. Permits for importation.

203. Unfitness for importation.

204. Inspection, issue of permits; regulations.

205. Penalties.

206. State powers concerning milk and cream.

207. Short title.

Subchapter II—Filled Milk

221. Definitions.

222. Filled milk; congressional finding concerning.

223. Regulations.

224. Penalties.

225. Short title.

Subchapter I—Importation of Milk and Cream

§ 201. Definitions.

As used in this subchapter—

(a) "Person" means an individual, partnership, corporation, or association.

(b) "United States" means the continental United States.

§ 202. Permits for importation

No person shall import milk and cream into the United States unless the person by whom it is shipped or transported holds a valid permit from the Secretary of Health, Education, and Welfare.

§ 203. Unfitness for importation

Milk or cream shall be considered unfit for importation—

(a) when all cows producing such milk or cream are not healthy and a physical examination of all such cows has not been made within 1 year previous to such milk being offered for importation;

(b) when such milk or cream, if raw, is not produced from cows which have passed a tuberculin test applied by a duly authorized official veterinarian of the United States, or of the country in which such milk or cream is produced, within 1 year previous to the time of the importation, showing that such cows are free from tuberculosis;

(c) when the sanitary conditions of the dairy farm or plant in which it is produced or handled do not score at least 50 points out of 100 points according to the current methods for scoring as provided by the score cards used by the United States Department of Agriculture;

(d) if the number of bacteria per cubic centimeter exceeds in the case of raw milk 300,000, in the case of raw cream 750,000, and in the case of pasteurized milk 100,000, and in the case of pasteurized cream 500,000;

(e) when the temperature of milk or cream at the time of importation exceeds 50° Fahrenheit.

§ 204. Inspection; issue of permits; regulations

(a) The Secretary of Health, Education, and Welfare shall cause such inspections to be made as are necessary to insure that milk and cream are produced and handled in compliance with section 203 of this title. When the Secretary finds that milk or cream is produced and handled so as not to be unfit for importation under section 203 (a), (b), and (c) of this title, the Secretary shall issue to persons making application therefor permits to ship milk or cream into the United States. In lieu of the inspections to be made by or under the direction of the Secretary, the Secretary may, in the Secretary's discretion, accept a duly certified statement signed by a duly accredited official of an authorized department of any foreign government or of any State of the United States or any municipality thereof that the provisions in section 203 (a), (b), and (c) of this title have been complied

with. Such certificate shall be in the form prescribed by the Secretary.

(b) The Secretary may, in the Secretary's discretion, waive the requirements of section 203 (d) of this title when issuing permits to operators of condenseries in which milk or cream is used when sterilization of the milk or cream is a necessary process, except that no milk or cream shall be imported the bacterial count of which per cubic centimeter in any event exceeds 1,200,000. Such requirements shall not be waived unless the farm producing such milk to be imported is within a radius of 15 miles of the condenser in which it is to be processed. If milk or cream imported when the requirements of section 203 (d), of this title, have been so waived, is sold, used, or disposed of in its raw state or otherwise than as condensed milk by any person, the permit shall be revoked and the importer shall be subject to fine, imprisonment, or other penalty prescribed by this subchapter.

(c) The Secretary shall waive the requirements of section 203 (b) and (e) of this title insofar as the same relate to milk when issuing permits to operators of, or to producers for delivery to, creameries and condensing plants in the United States within 20 miles of the point of production of the milk, and who import no raw milk except for pasteurization or condensing. If milk imported when the requirements of section 203 (b) and (e) of this title have been so waived is sold, used, or disposed of in its raw state, or otherwise than as pasteurized, condensed, or evaporated milk by any person, the permit shall be revoked and the importer shall be subjected to fine, imprisonment, or other penalty prescribed by this subchapter.

(d) The Secretary shall make and enforce such regulations as the Secretary deems necessary to carry out the purpose of this subchapter for the issuance of permits to import milk and cream, for the handling of milk and cream, for the inspection of milk, cream, cows, barns, and other facilities used in the production and handling of milk and cream, and for the handling, keeping, transporting, and importing of milk and cream. Unless and until the Secretary provides for inspections to ascertain that section 203 (a), (b), and (c) of this title has been complied with, the Secretary shall issue temporary permits to any applicants therefor to ship or transport milk or cream into the United States.

(e) The Secretary may suspend or revoke any permit for the shipment of milk or cream into the United States when the Secretary finds that the holder thereof has failed to comply with the provisions of, or has violated, this subchapter, or any of the regulations made under this subchapter, or that the milk or cream brought or shipped by the holder of such permit into the United States is not produced and handled in conformity with, or that the quality thereof does not conform to, all of the provisions of section 203 of this title.

§ 205. Penalties.

(a) No person in the United States shall receive milk or cream imported into the United States unless the importation is in accordance with the provisions of this subchapter.

(b) Any person who knowingly violates any provision of this subchapter shall, in addition to all other penalties prescribed by law, be fined not more than \$2,000 or imprisoned not more than 1 year, or both.

§ 206. State powers concerning milk and cream

Nothing in this subchapter shall be construed to affect the powers of any State, or any political subdivision thereof, to regulate the shipment of milk or cream into, or the handling, sale, or other disposition of milk or cream in, such State or political subdivision after the milk or cream has been lawfully imported under this subchapter.

§ 207. Short title

This subchapter may be cited as the "Federal Import Milk Act."

Subchapter II—Filled milk

§ 221. Definitions

As used in this subchapter—

(a) "Filled milk" means any milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat, so that the resulting product is in imitation or semblance of milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated. This definition does not include any distinctive proprietary food compound not readily mistaken in taste for milk or cream or for evaporated, condensed, or powdered milk, or cream where such compound (1) is prepared and designed for feeding infants and young children and customarily used on the order of a physician; (2) is packed in individual cans containing not more than 16½ ounces and bearing a label in bold type and the content is to be used only for such purpose; and (3) is shipped in interstate and foreign commerce exclusively to physicians, wholesale and retail druggists, orphan asylums, child-welfare associations, hospitals, and similar institutions and generally disposed of by them.

(b) "Interstate or foreign commerce" means commerce (1) between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; (2) between points within the same State, Territory, or possession, or within the District of Columbia, but through any place outside thereof; or (3) within any Territory or possession, or within the District of Columbia.

(c) "Person" means an individual, partnership, corporation, or association.

§ 222. Filled milk; congressional finding concerning

Filled milk is an adulterated article of food, injurious to the public health, and its sale constitutes a fraud upon the public.

§ 223. Regulations

The Secretary of Health, Education, and Welfare shall make and enforce such regulations as the Secretary deems necessary to carry out the purposes of this subchapter.

§ 224. Penalties

Any person who manufactures within any Territory or possession, or within the District of Columbia, or ships or delivers for shipment in interstate or foreign commerce, any filled milk, shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both. When construing and enforcing the provisions of this subchapter, the act, omission, or failure of any person acting for or employed by any individual, partnership, corporation, or association, within the scope of his employment or office, shall in every case be deemed the act, omission, or failure, of each individual, partnership, corporation, or association, as well as of such person.

§ 225. Short title

This subchapter may be cited as the "Federal Filled Milk Act."

Chapter 7—Tea importation

Sec.

261. Substandard tea importation; materials for manufacturing.

262. Standards; duplicate samples.

263. Importer's bonds and fees; sampling and examination.

264. Permit for delivery; inferior grades; partial delivery.

265. Examiners.

266. Examination according to usages of trade.

267. Reexamination by Appeals Board; disposition of tea.

268. Procedure for reexamination; assistance of experts.

269. Reimporting rejected teas; forfeitures.

270. Regulations.

271. Short title.

§ 261. Substandard tea importation; materials for manufacturing

(a) No person shall import or bring into the United States any merchandise as tea which is inferior in purity, quality, and fitness for consumption to the standards provided in section 262 of this title.

(b) Nothing in this chapter shall affect or prevent the importation into the United States, under such regulations as the Secretary of Health, Education, and Welfare prescribes, of any merchandise as tea which may be inferior in purity, quality, and fitness for consumption to the standards established by the Secretary, or of any tea waste, tea siftings, or tea sweepings, for the sole purpose of manufacturing theine, caffeine, or other chemical products whereby the identity and character of the original material is entirely destroyed or changed. Importers and manufacturers who import such tea, tea waste, tea siftings, or tea sweepings into the United States shall give suitable bond, to be subject to the approval only of the collector of customs at the port of entry, conditioned that said imported material shall be used only for the purposes provided in this subsection, under such regulations as may be prescribed by the Secretary.

§ 262. Standards; duplicate samples

The Board of Tea Experts shall prepare and submit standard samples of tea to the Secretary of Health, Education, and Welfare who, upon the Board's recommendation, shall fix and establish uniform standards of purity, quality, and fitness for consumption of all kinds of teas imported into the United States. The Secretary shall procure and deposit in the customhouses of the ports of New York, Chicago, San Francisco, and such other ports as the Secretary may determine, duplicate samples of such standards, and the Secretary shall procure a sufficient number of other duplicate samples to supply the importers and dealers in tea at all ports desiring the same at cost. All teas, or merchandise described as tea, of inferior purity, quality, and fitness for consumption to such standards shall be deemed within the prohibition of section 261 of this title.

§ 263. Importer's bonds and fees; sampling and examination

(a) On making entry at the customhouse of all teas, or merchandise described as tea, imported into the United States, the importer or consignee shall give a bond to the collector of the port that such merchandise shall not be removed from the warehouse until released by the collector, after it shall have been duly examined with reference to its purity, quality, and fitness for consumption. For the purpose of such examination samples of each line in every invoice of tea shall be submitted by the importer or consignee, to the examiner, together with the sworn statement of such importer or consignee that such samples represent the true quality of each part of the invoice and accord with the specifications therein contained, or in the discretion of the Secretary, such samples shall be obtained by the examiner and compared by him with the standards established by this chapter. Where entry is made at ports where there is no qualified examiner as provided in section 265 of this title, the consignee or importer shall furnish such samples and sworn statement to the collector or other revenue officer to whom it is committed the collection of duties, who shall also draw or cause to be drawn samples of each line in every invoice and shall forward the same to a duly qualified examiner as provided in that section. The bond required by this section shall also be conditioned for the payment of all customhouse

charges which may attach to such merchandise prior to its being released or destroyed, as the case may be, under the provisions of this chapter.

(b) The collector shall not examine for importation, or release, any tea, or merchandise described as tea, under this chapter unless the importer or consignee thereof, prior to such examination, has paid for deposit into the Treasury of the United States as miscellaneous receipts, a fee of 3.5 cents for each hundredweight or fraction thereof of such tea and merchandise.

§ 264. Permit for delivery; inferior grades; partial delivery

If, after an examination as provided in section 263 of this title, the tea is found by the examiner to be equal in purity, quality, and fitness for consumption to the standards provided in this chapter, and no reexamination is demanded by the collector as provided in section 267 of this title, a permit shall at once be granted to the importer or consignee declaring the tea free from the control of the customs authorities. If tea, or merchandise described as tea, is found, in the opinion of the examiner, to be inferior in purity, quality, and fitness for consumption to such standards, the importer or consignee shall be immediately notified, and the tea, or merchandise described as tea, shall not be released by the customhouse, unless on a reexamination called for by the importer or consignee the finding of the examiner is found to be erroneous. If a portion of the invoice is passed by the examiner, a permit shall be granted for that portion and the remainder held for further examination, as provided in said section 267.

§ 265. Examiners

The examination provided for by this chapter shall be made by a duly qualified examiner at a port where standard samples are established. Where the merchandise is entered at ports where there is no qualified examiner, the examination shall be made at that one of said ports which is nearest the port of entry, and for this purpose samples obtained in the manner prescribed by section 263 of this title shall be forwarded to the proper port by the collector or chief officer at the port of entry.

§ 266. Examination according to usages of trade

In all cases of examination or reexamination of teas, or merchandise described as tea, by examiners or the United States Board of Tea Appeals under the provisions of this chapter, the purity, quality, and fitness for consumption of the same shall be tested according to the usages and customs of the tea trade, including the testing of an infusion of the same in boiling water, and, if necessary, chemical analysis.

§ 267. Reexamination by Appeals Board; disposition of tea

(a) If the collector, importer, or consignee protests against the finding of the examiner, the matter in dispute shall be referred for decision to the United States Board of Tea Appeals.

(b) If the Board, after examination, finds the tea in question to be equal in purity, quality, and fitness for consumption to the proper standards, the collector shall issue a permit for its release and delivery to the importer.

(c) If upon final reexamination by the Board the tea is found to be inferior in purity, quality, and fitness for consumption to the said standards, the importer or consignee shall give a bond, with security satisfactory to the collector, to export said tea, or merchandise described as tea, out of the limits of the United States within a period of 6 months after such final reexamination, and if the same has not been exported within the time specified, the collector, at the expiration of that time, shall cause the same to be destroyed.

§ 268. Procedure for reexamination; assistance of experts

In cases of reexamination of teas, or merchandise described as teas, by the United States Board of Tea Appeals in pursuance of the provisions of this chapter, the examiner shall put up and seal samples of the tea, or merchandise described as tea, in dispute, in the presence of the importer or consignee if he so desires, and transmit them to the Board, together with a copy of his finding, setting forth the cause of condemnation and the claim or ground of the protest of the importer relating to the same. Such samples and papers shall be distinguished by an identifying mark.

The decision of the Board shall be in writing, signed by its members, and transmitted with the record and samples to the collector within 3 days after its rendition. The collector shall forthwith furnish the examiner and the importer or consignee with a copy of such decision.

The United States Board of Tea Appeals may obtain the advice, when necessary, of persons skilled in the examination of teas, who shall each receive for his services in any particular case a compensation not exceeding \$5.

§ 269. Reimporting rejected teas; forfeiture

No imported teas which have been rejected by an examiner or by the United States Board of Tea Appeals, and exported under the provisions of this chapter, shall be reimported into the United States. Any such teas so imported shall be forfeited.

§ 270. Regulations

The Secretary of Health, Education, and Welfare may enforce this chapter by appropriate regulations.

§ 271. Short title

This chapter and sections 3 and 4 of this title may be cited as the "Federal Import Tea Act."

Chapter 9—Caustic poisons

Sec.

- 311. Definitions.
- 312. Misbranded shipments.
- 313. Misbranded imports.
- 314. Removal of labels.
- 315. Enforcement.
- 316. Label for condemnation.
- 317. Penalties.
- 318. Institution of condemnation and criminal proceedings.
- 319. Construction; application of other provisions.
- 320. Short title.

§ 311. Definitions

As used in this chapter, unless the context otherwise requires—

(a) "Dangerous caustic or corrosive substance" means:

(1) hydrochloric acid and any preparation containing free or chemically unneutralized hydrochloric acid (HCl) in a concentration of 10 percent or more;

(2) sulphuric acid and any preparation containing free or chemically unneutralized sulphuric acid (H₂SO₄) in a concentration of 10 percent or more;

(3) nitric acid or any preparation containing free or chemically unneutralized nitric acid (HNO₃) in a concentration of 5 percent or more;

(4) carboic acid (C₆H₅OH), otherwise known as phenol, and any preparation containing carboic acid in a concentration of 5 percent or more;

(5) oxalic acid and any preparation containing free or chemically unneutralized oxalic acid (H₂C₂O₄) in a concentration of 10 percent or more;

(6) any salt of oxalic acid and any preparation containing any such salt in a concentration of 10 percent or more;

(7) acetic acid or any preparation containing free or chemically unneutralized

acetic acid (HC₂H₃O₂) in a concentration of 20 percent or more;

(8) hypochlorous acid, either free or combined, and any preparation containing the same in a concentration so as to yield 10 percent or more by weight of available chlorine, excluding calx chlorinata, bleaching powder, and chloride of lime;

(9) potassium hydroxide and any preparation containing free or chemically unneutralized potassium hydroxide (KOH), including caustic potash and Vienna paste, in a concentration of 10 percent or more;

(10) sodium hydroxide and any preparation containing free or chemically unneutralized sodium hydroxide (NaOH), including caustic soda and lye, in a concentration of 10 percent or more;

(11) silver nitrate, sometimes known as lunar caustic, and any preparation containing silver nitrate (AgNO₃) in a concentration of 5 percent or more; and

(12) ammonia water and any preparation containing free or chemically uncombined ammonia (NH₃), including ammonium hydroxide and "hartshorn", in a concentration of 5 percent or more.

(b) "Misbranded parcel, package, or container" means a retail parcel, package, or container of any dangerous caustic or corrosive substance not bearing a conspicuous, easily legible label or sticker, containing—

(1) the common name of the substance;

(2) the name and place of business of the manufacturer, packer, seller, or distributor;

(3) the word "poison", running parallel with the main body of reading matter on the label or sticker, on a clear, plain background of a distinctly contrasting color, in uncondensed gothic capital letters, the letters to be not less than 24-point size unless there is on the label or sticker no other type so large, in which event the type shall be not smaller than the largest type on the label or sticker; and

(4) directions for treatment in case of accidental personal injury by any dangerous caustic or corrosive substance, except that such directions need not appear on labels or stickers, on parcels, packages, or containers at the time of shipment or of delivery for shipment by manufacturers and wholesalers for other than household use.

(c) "Interstate or foreign commerce" means commerce (1) between any State, Territory, or possession, or the District of Columbia, and any place outside thereof, or (2) between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof, or (3) within any Territory or possession, or the District of Columbia.

(d) "Person" means an individual, partnership, corporation, or association.

§ 312. Misbranded shipments

(a) No person shall ship or deliver for shipment in interstate or foreign commerce or receive from shipment in such commerce any dangerous caustic or corrosive substance for sale or exchange, or sell or offer for sale any such substance in any Territory or possession or in the District of Columbia, in a misbranded parcel, package, or container suitable for household use.

(b) The provisions of subsection (a) of this section do not apply—

(1) to any regularly established common carrier shipping or delivering for shipment, or receiving from shipment, any such substance in the ordinary course of its business as a common carrier; nor

(2) to any person in respect of any such substance shipped or delivered for shipment, or received from shipment, for export to any foreign country, in a parcel, package, or container branded in accordance with the specifications of a foreign purchaser and in accordance with the laws of the foreign country; nor

(3) to any dealer who establishes a guaranty signed by, and containing the name and

address of, the wholesaler, jobber, manufacturer, or other party residing in the United States, from whom he purchased such articles, to the effect that the articles are not misbranded within the meaning of this chapter. In such case the person giving such guaranty shall be amenable to the prosecutions, fines, and other penalties which would otherwise attach, in due course, to the dealer under the provisions of this chapter.

§ 313. Misbranded imports

(a) Whenever any dangerous caustic or corrosive substance is offered for importation and the Secretary of Health, Education, and Welfare has reason to believe that such substance is being shipped in interstate or foreign commerce in violation of section 312 of this title, the Secretary shall give due notice and opportunity for hearing thereon to the owner or consignee and certify such fact to the Secretary of the Treasury, who shall thereupon either (1) refuse admission and delivery to the consignee of such substance, or (2) deliver such substance to the consignee pending examination, hearing, and decision in the matter, on the execution of a penal bond to the amount of the full invoice value of such substance, together with the duty thereon, if any, and to the effect that on refusal to return such substance for any cause to the Secretary of the Treasury when demanded, for the purpose of excluding it from the country or for any other purpose, the consignee shall forfeit the full amount of the bond.

(b) If, after proceeding in accordance with subsection (a) of this section, the Secretary is satisfied that such substance offered for importation was shipped in interstate or foreign commerce in violation of any provision of this chapter, the Secretary shall certify the fact to the Secretary of the Treasury, who shall thereupon notify the owner or consignee and cause the sale or other disposition of such substance refused admission and delivery or entered under bond, unless it is exported by the owner or consignee or labeled by him so as to conform to the law within 3 months from the date of such notice, under such regulations as the Secretary of the Treasury may prescribe. All charges for storage, cartage, or labor on any such substance refused admission or delivery or entered upon bond shall be paid by the owner or consignee. In default of such payment such charges shall constitute a lien against any future importations made by such owner or consignee.

§ 314. Removal of labels

No person shall alter, mutilate, destroy, obliterate, or remove any label or sticker required by this chapter to be placed on any dangerous caustic or corrosive substance, if such substance is being—

(a) shipped in interstate or foreign commerce; or

(b) held for sale or exchange after having been so shipped; or

(c) held for sale or exchange in any Territory or possession or in the District of Columbia.

§ 315. Enforcement

(a) Except as otherwise specifically provided in this chapter, the Secretary of Health, Education, and Welfare shall enforce its provisions.

(b) For enforcing the provisions of sections 313, 316, and 317 of this title, the Secretary may cause investigations, inspections, analyses, and tests to be made and samples to be collected, of any dangerous caustic or corrosive substance. The Department of Health, Education, and Welfare shall pay to the person entitled, upon his request, the reasonable market value of any such sample taken. If it appears from the inspection, analysis, or test of any dangerous caustic or corrosive substance that such substance is in a misbranded package, parcel, or con-

tainer suitable for household use, the Secretary shall cause notice thereof to be given to any person who may be liable for any violation of section 312 or 314 of this title in respect of such substance. Any person so notified shall be given an opportunity to be heard under the Secretary's regulations. If it appears that such person has violated the provisions of section 312 or 314 of this title, the Secretary shall at once certify the facts to the proper United States attorney, with a copy of the results of the inspection, analysis, or test duly authenticated under oath by the person making it.

(c) For the enforcement of his functions under this chapter the Secretary may—

(1) prescribe and promulgate necessary regulations;

(2) cooperate with any department or agency of the Government, with any State, Territory, or possession, or with the District of Columbia, or with any department, agency, or political subdivision thereof, or with any person;

(3) appoint officers and employees necessary for the execution of this chapter and fix their salaries in accordance with the Classification Act of 1949;

(4) make such expenditures, including expenditures for personal services and rent at the seat of Government and elsewhere, and for law books, books of reference, and periodicals, required for the execution of the Secretary's functions under this chapter and as provided for by the Congress from time to time; and

(5) give notice, by publication in such manner as the Secretary prescribes by regulation, of the judgment of the court in any case under the provisions of this chapter.

§ 316. Libel for condemnation

(a) Any dangerous caustic or corrosive substance in a misbranded parcel, package, or container suitable for household use shall be liable to be proceeded against in the United States district court for any judicial district in which the substance is found and to be seized for confiscation by a process of libel for condemnation, if such substance is being—

(1) shipped in interstate or foreign commerce, or

(2) held for sale or exchange after having been so shipped, or

(3) held for sale or exchange in any Territory or possession or in the District of Columbia.

(b) If such substance is condemned as misbranded by the court it shall be disposed of in the discretion of the court—

(1) by destruction;

(2) by delivery to the owner thereof upon the payment of legal costs and charges and execution and delivery of a good and sufficient bond to the effect that such substance will not be sold or otherwise disposed of in any jurisdiction contrary to the provisions of this chapter or the laws of such jurisdiction; or

(3) by sale. The proceeds of the sale, less legal costs and charges, shall be paid into the Treasury as miscellaneous receipts. Such substance shall not be sold in any jurisdiction contrary to the provisions of this chapter or the laws of such jurisdiction, and the court may require the purchaser at any such sale to label such substance in compliance with law before the delivery thereof.

(c) Proceedings in such libel cases shall conform, as nearly as may be, to suits in rem in admiralty, except that either party may demand trial by jury on any issue of fact if the value in controversy exceeds \$20. In case of a jury trial the verdict of the jury shall have the same effect as a finding of the court upon the facts. All such proceedings shall be at the suit and in the name of the United States.

§ 317. Penalties

(a) Any person who violates any provision of section 312 or 314 of this title shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both. Any person who commits such a violation after 1 conviction under this section has become final shall be fined not more than \$10,000 or imprisoned not more than 3 years, or both.

(b) Notwithstanding the provisions of subsection (a) of this section, any person who violates any provision of section 312 or 314 of this title, with intent to defraud or mislead, shall be fined not more than \$10,000 or imprisoned not more than 3 years, or both.

§ 318. Institution of condemnation and criminal proceedings

Each United States attorney to whom the Secretary shall report any violation of section 312 or 314 of this title or to whom any health, medical, or drug officer or agent of any State, Territory, or possession, or of the District of Columbia presents satisfactory evidence of any such violation, shall cause libel for condemnation and criminal proceedings under sections 316 and 317 of this title to be commenced and prosecuted in the proper court of the United States, without delay, for the enforcement of the condemnation and penalties provided in such sections.

§ 319. Construction; application of other provisions

(a) This chapter is not to be construed as modifying or limiting in any way the right of any person to manufacture, pack, ship, sell, barter, and distribute dangerous caustic or corrosive substances in parcels, packages, or containers, labeled as required by this chapter.

(b) The provisions of this chapter shall be held to be in addition to and not in substitution for the provisions of the following:

(1) chapter 3 of this title;

(2) chapter 6 of title 7;

(3) the act entitled "An act to regulate the practice of pharmacy and the sale of poisons in the District of Columbia, and for other purposes", approved May 7, 1906, as amended.

§ 320. Short title

This chapter may be cited as the "Federal Caustic Poison Act."

PART II.—ANIMALS, POULTRY, AND MEATS

Chapter	Section
51. Department of Agriculture.....	451
53. Meat Inspection.....	491
55. Animal and Poultry Disease Prevention; Transportation, Import, and Export	551
57. Serums and Analogous Products.....	611

Chapter 51—Department of Agriculture

Sec. 451. Administration of Part II; delegation of functions.

§ 451. Administration of Part II; delegation of functions

The provisions of this part shall be administered by the Secretary of Agriculture, except as otherwise provided herein. Such Secretary's functions under this part shall be performed by him or, subject to his direction and control, by such officers and agencies of the Department of Agriculture as he designates.

Chapter 53—Meat Inspection

491. Definitions.
492. Ante-mortem inspections.
493. Post-mortem inspections.
494. Meat food products.
495. Canning or packing meats and products; labels.
496. Inspection of establishments.
497. Time of inspections.
498. Meat for export; inspection; clearance.

499. Inspector's certificates.
500. Inspection, stamps or marks.
501. Farmers and retail butchers and dealers, exemptions.
502. Inspectors; appointment, powers, and duties.
503. Regulations.
504. Cost of inspections.
505. Transportation of uninspected and unmarked articles.
506. Transportation or sale in violation of chapter.
507. Forgery or misuse of marks or certificates.
508. Penalties generally.
509. Penalty for sale or transportation of unfit products by exempted persons.
510. Bribery; acceptance of gifts.
511. Horse meat.
512. Dairy products for export.
513. Reindeer.

§ 491. Definitions

As used in this chapter—

(a) "establishment" means a slaughtering, canning, salting, packing, rendering, or similar establishment;

(b) "farmer" means any natural person or partnership chiefly engaged in producing agricultural products on whose farm the number of cattle, calves, sheep, lambs, swine, or goats is in keeping with the size of the farm or with the volume or character of the agricultural products produced thereon, but does not mean any person or partnership engaged in producing agricultural products who—

(1) actively engages in buying or trading in cattle, calves, sheep, lambs, swine, or goats; or

(2) actively engages, directly or indirectly, in conducting a business which includes the slaughter of cattle, calves, sheep, lambs, swine, or goats for food purposes; or

(3) actively engages, directly or indirectly, in buying or selling meat or meat food products other than those prepared by any farmer on the farm; or

(4) actively engages, directly or indirectly, in salting, curing, or canning meat, or in preparing sausage, lard, or other meat food products; or

(5) slaughters, or permits any person to slaughter, on his or their farm cattle, calves, sheep, lambs, swine, or goats which are not actually owned by him or them;

(c) "inspector" means an inspector appointed by the Secretary of Agriculture under the provisions of this chapter;

(d) "retail butcher" or "retail dealer" means any person chiefly engaged in selling meat or meat food products to consumers only, except that the Secretary, at his discretion, may permit any retail butcher or retail dealer to transport in interstate or foreign commerce to consumers and meat retailers in any one week not more than 5 carcasses of cattle, 25 carcasses of calves, 20 carcasses of sheep, 25 carcasses of lambs, 10 carcasses of swine, 20 carcasses of goats, or 25 carcasses of goat kids, or the equivalent of fresh meat therefrom, and to transport in interstate or foreign commerce to consumers only meat and meat food products which have been salted, cured, canned, or prepared as sausage, lard, or other meat food products, and which have not been inspected, examined, and marked as "Inspected and Passed" in accordance with this chapter and with the Secretary's rules and regulations;

5. "Secretary" means the Secretary of Agriculture.

§ 492. Ante-mortem inspections

For the purpose of preventing the use in interstate or foreign commerce of meat and meat food products which are unsound, unhealthful, unwholesome, or otherwise unfit for human food, the Secretary may cause to

be made an examination and inspection of all cattle, sheep, swine, and goats, the meat and meat food products of which are to be used in interstate or foreign commerce, before they are allowed to enter into any establishment in which they are to be slaughtered. All such animals found on such inspection to show symptoms of disease shall be set apart and slaughtered separately from all other such animals. When so slaughtered the carcasses of such animals shall be subject to a careful examination and inspection, under the Secretary's rules and regulations, as provided for in this chapter.

§ 493. Post-mortem inspections

For the purpose set forth in section 492 of this title the Secretary shall cause to be made a post-mortem examination and inspection of the carcasses and parts thereof of all cattle, sheep, swine, and goats, which are to be prepared for human consumption at any establishment in any State or Territory or the District of Columbia for transportation or sale as articles of interstate or foreign commerce.

The carcasses and parts thereof of all such animals found to be sound, healthful, wholesome, and fit for human food shall be market, stamped, tagged, or labeled as "Inspected and Passed".

All carcasses and parts thereof found to be unsound, unhealthful, unwholesome, or otherwise unfit for human food shall be market, stamped, tagged, or labeled as "Inspected and Condemned," and all carcasses and parts thereof thus inspected and condemned shall be destroyed for food purposes by the establishment in the presence of an inspector.

After the first inspection, the inspectors shall, when they deem it necessary, reinspect the carcasses or parts thereof and if upon such reinspection any carcass or any part thereof is found to be unsound, unhealthful, unwholesome, or otherwise unfit for human food, it shall be destroyed for food purposes by the establishment in the presence of an inspector.

The Secretary may remove inspectors from any establishment which fails so to destroy any carcass or part thereof required to be destroyed by this section.

The provisions of this section apply to all carcasses or parts of carcasses of cattle, sheep, swine, and goats, or the meat or meat food products thereof which may be brought into any establishment, and such examination and inspection shall be had before the said carcasses or parts thereof are allowed to enter into any department wherein they are to be treated and prepared for meat food products. The provisions of this section also apply to all such products, which, after having been issued from any establishment, are returned to the same or to any similar establishment where such inspection is maintained.

§ 494. Meat food products

For the purpose set forth in section 492 of this title the Secretary shall cause to be made an examination and inspection of all meat food products prepared for interstate or foreign commerce in any establishment.

The inspectors shall mark, stamp, tag, or label as "Inspected and Passed" all such products found to be sound, healthful, and wholesome, and which contain no dyes, chemicals, preservatives, or ingredients which render such meat, or meat food products unsound, unhealthful, unwholesome, or unfit for human food.

The inspectors shall label, mark, stamp, or tag as "Inspected and Condemned" all such products found unsound, unhealthful, and unwholesome, or which contain dyes, chemicals, preservatives, or ingredients which render such meat or meat food products unsound, unhealthful, unwholesome, or unfit

for human food, and all such condemned meat food products shall be destroyed for food purposes by the establishment in the presence of an inspector. The Secretary may remove inspectors from any establishment which fails to so destroy such condemned meat food products.

Subject to the Secretary's rules and regulations the provisions of this section in regard to preservatives shall not apply to meat food products for export to any foreign country and which are prepared or packed according to the specifications or directions of the foreign purchaser, when no substance is used in the preparation or packing thereof in conflict with the laws of the foreign country to which said article is to be exported. If said article is in fact sold or offered for sale for domestic use or consumption, this paragraph shall not exempt said article from the operation of all the other provisions of this chapter.

§ 495. Canning or packing meats and products; labels

When any meat or meat food product prepared for interstate or foreign commerce which has been inspected under this chapter and marked "Inspected and Passed" is placed or packed in any can, pot, tin, canvas, or other receptacle or covering in any establishment where inspection is maintained under this chapter, the person preparing said product shall cause a label to be attached to said receptacle or covering, under the supervision of an inspector. Such label shall state that the contents thereof have been "Inspected and Passed" under the provisions of this chapter. No inspection and examination of meat or meat food products deposited or inclosed in cans, tins, pots, canvas, or other receptacle or covering in any such establishment shall be deemed to be complete until such meat or meat food products have been sealed or inclosed in said receptacle or covering under the supervision of an inspector.

No such meat or meat food products shall be sold or offered for sale by any person in interstate or foreign commerce under any false or deceptive name. Established trade name or names which are usual to such products and which are not false and deceptive and which are approved by the Secretary are permitted.

§ 496. Inspection of establishments.

The Secretary shall cause inspections to be made, by experts in sanitation or by other competent inspectors, of all establishments defined in section 491 of this title in which cattle, sheep, swine, and goats are slaughtered and the meat and meat food products thereof are prepared for interstate or foreign commerce. The inspections shall be such as are necessary to inform the Secretary concerning the sanitary conditions of the establishments, and to enable him to prescribe the rules and regulations of sanitation under which such establishments shall be maintained. Where the sanitary conditions of any such establishment are such that the meat or meat food products are rendered unclean, unsound, unhealthful, unwholesome, or otherwise unfit for human food, the Secretary shall refuse to allow said meat or meat food products to be labeled, marked, stamped, or tagged as "Inspected and Passed."

§ 497. Time of inspections

(a) The examinations and inspections required by sections 492, 493, 494, and 495 of this title shall be made during the nighttime as well as during the daytime when the slaughtering of the animals or preparation of the meat or meat food products is conducted during the nighttime.

(b) For the purposes of any examination and inspection under this chapter, the inspectors shall have access at all times, by day or night, whether the establishment is being

operated or not, to every part of the establishment.

§ 498. Meat for export; inspection; clearance

(a) The Secretary shall cause to be made a careful inspection of the carcasses and parts thereof of all cattle, sheep, swine, and goats, when the fresh, salted, canned, corned, packed, cured, or otherwise prepared meat or meat food products of such animals is intended and offered for export to any foreign country, at such times and places and in such manner as he deems proper.

(b) No clearance shall be given to any vessel having on board any fresh, salted, canned, corned, or packed beef, mutton, pork, or goat meat, for export to and sale in a foreign country from any port in the United States, until the owner or shipper thereof shall obtain a certificate from an inspector that the cattle, sheep, swine, and goats from which such meat or meat food product was obtained, were sound and healthy at the time of inspection, and that their meat or meat food product is sound and wholesome, unless the Secretary has waived the requirement of such certificate for the country to which such meat or meat food product is to be exported.

§ 499. Inspectors' certificates

The inspectors may give official certificates of the sound and wholesome condition of cattle, sheep, swine, and goats, their carcasses and products as described in this chapter.

One copy of each such certificate shall be filed in the Department of Agriculture, another copy shall be delivered to the owner or shipper, and when the carcasses of cattle, sheep, swine, and goats, and the meat and meat food products thereof are sent abroad, a third copy shall be delivered to the chief officer of the vessel on which the shipment is made.

§ 500. Inspection, stamps or marks

The inspectors shall refuse to stamp, mark, tag, or label as "Inspected and Passed" any carcass or any part thereof, or meat food product therefrom, prepared in any establishment subject to this chapter until the same has actually been inspected and found to be sound, healthful, wholesome, and fit for human food, and to contain no dyes, chemicals, preservatives, or ingredients which render such meat food product unsound, unhealthful, unwholesome, or unfit for human food, and to have been prepared under proper sanitary conditions.

§ 501. Farmers and retail butchers and dealers, exemptions

(a) The provisions of this chapter requiring inspection to be made by the Secretary do not apply to animals slaughtered by any farmer on the farm and sold and transported in interstate or foreign commerce, nor to retail butchers and retail dealers in meat and meat food products, supplying their customers.

No meat and meat food products derived from animals slaughtered by any farmer on the farm which are salted, cured, canned, or prepared into sausage, lard, or other meat food products at any place other than by the farmer on the farm upon which the animals were slaughtered shall be transported in interstate or foreign commerce under the farmers' exemption provided in this section. All fresh meat and all farm-cured or prepared meat and meat food products derived from animals slaughtered by any farmer on the farm which are to be used in interstate or foreign commerce shall be clearly marked with the name and address of the farmer on whose farm the animals were slaughtered.

(b) The Secretary may maintain the inspection provided for in this chapter at any establishment notwithstanding the exemptions contained in this section, and notwith-

standing that the persons operating the same may be retail butchers and retail dealers or farmers. Where the Secretary establishes such inspection, the provisions of this chapter shall apply notwithstanding such exemptions.

§ 502. Inspectors; appointment, powers, and duties

The Secretary shall from time to time appoint inspectors to make the examinations and inspections provided for under this chapter and to perform such other duties as are required by this chapter and the Secretary's rules and regulations.

§ 503. Regulations

The Secretary shall make such rules and regulations as are necessary for the efficient execution of the provisions of this chapter. All inspections and examinations under this chapter shall be made in the manner provided in the Secretary's rule and regulations which are not inconsistent with this chapter.

§ 504. Cost of inspections

The United States shall bear the cost of inspections rendered under the requirements of this chapter except the cost of overtime pursuant to section 394 of title 7.

§ 505. Transportation of uninspected and unmarked articles

No person shall transport or offer for transportation, and no carrier of interstate or foreign commerce shall transport or receive for transportation from one State or Territory or the District of Columbia or to any other State or Territory or the District of Columbia, or to any place under the jurisdiction of the United States, or to any foreign country, and carcasses or parts thereof, meat, or meat food products thereof which have not been inspected, examined, and marked as "Inspected and Passed," in accordance with the terms of this chapter and with the Secretary's rules and regulations.

§ 506. Transportation or sale in violation of chapter

No person engaged in the interstate commerce of meat or meat food products shall transport or offer for transportation, sell or offer to sell, any such meat or meat food products in any State or Territory or in the District of Columbia or any place under the jurisdiction of the United States, other than in the State or Territory or in the District of Columbia or any place under the jurisdiction of the United States in which the slaughtering, packing, canning, rendering, or other similar establishment owned, leased, or operated by such person is located unless and until such person shall have complied with all of the provisions of this chapter.

§ 507. Forgery or misuse of marks or certificates

No person shall forge, counterfeit, simulate, or falsely represent, or shall, without proper authority, use, fail to use, or detach, or shall knowingly or wrongfully alter, deface, or destroy, or fail to deface or destroy, any of the marks, stamps, tags, labels, or other identification devices provided for in this chapter, or in and as directed by the rules and regulations prescribed under this chapter by the Secretary of Agriculture, on any carcasses, parts of carcasses, or the food product, or containers thereof, subject to the provisions of this chapter or any certificate in relation thereto, authorized or required by this chapter or by the said rules and regulations of the Secretary of Agriculture.

§ 508. Penalties generally

Except as provided in sections 509 and 510 of this title, whoever violates any of the provisions of this chapter shall be fined not more than \$10,000 or imprisoned not more than 1 year, or both.

§ 509. Penalty for sale or transportation of unfit products by exempted persons

Whoever, being a farmer, retail butcher, or retail dealer acting under the exemptions provided in section 502 of this title, sells or offers for sale or transportation for interstate or foreign commerce any meat or meat food products which are diseased, unsound, unhealthful, unwholesome, or otherwise unfit for human food, knowing that such meat food products are intended for human consumption, shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both.

§ 510. Bribery; acceptance of gifts

(a) Whoever gives, pays, or offers, directly or indirectly, to any inspector, deputy inspector, chief inspector, or any other officer or employee of the United States authorized to perform any of the duties prescribed by this chapter or by the Secretary's rules and regulations, any money or other thing of value, with intent to influence such inspector, deputy inspector, chief inspector, or other officer or employee of the United States in the discharge of any duty provided for in this chapter, shall be fined not more than \$10,000 or imprisoned not more than 3 years, or both.

(b) Whoever, being an inspector, deputy inspector, chief inspector, or other officer or employee of the United States authorized to perform any of the duties prescribed by this chapter, accepts any money, gift, or other thing of value from any person, given with intent to influence his official action, or who receives or accepts from any person engaged in interstate or foreign commerce any gift, money, or other thing of value, given with any purpose or intent whatsoever, shall be summarily discharged from office and shall be fined not more than \$10,000 or imprisoned not more than 3 years, or both.

§ 511. Horse meat

(a) No person shall transport or offer for transportation, and no carrier of interstate or foreign commerce shall transport or receive for transportation from one State or Territory or the District of Columbia to any other State or Territory or the District of Columbia or to any place under the jurisdiction of the United States or to any foreign country, any equine meat or food products thereof unless plainly and conspicuously labeled, marked, branded, or tagged "Horse meat" or "Horse meat product," as the case may be, under rules and regulations prescribed by the Secretary.

(b) All the penalties, terms, and provisions in this chapter, except the exemption in section 501 of this title applying to animals slaughtered by any farmer on a farm and to retail butchers and retail dealers in meat food products supplying their customers, shall be applicable to (1) horses, their carcasses, parts of carcasses, and meat food products thereof, (2) the establishments and other places where such animals are slaughtered or the meat or meat food products thereof are prepared or packed for interstate or foreign commerce, and (3) all persons who slaughter such animals or prepare or handle such meat or meat food products for interstate or foreign commerce.

§ 512. Dairy products for export

This chapter shall be deemed to include dairy products intended for exportation to any foreign country. The Secretary may apply, under rules and regulations prescribed by him, the provisions of this chapter for inspection and certification appropriate for ascertaining the purity and quality of such products, and may cause them to be so marked, stamped, or labeled as to secure their identity and make known in the markets of foreign countries to which they may be sent

from the United States their purity, quality, and grade. All the provisions of this chapter relating to live cattle and products thereof for export shall apply to dairy products so inspected and certified.

§ 513. Reindeer

The provisions of this chapter may be extended to the inspection of reindeer.

Chapter 55—Animal and poultry disease prevention; transportation, import and export Sec.

551. Measures and regulations to prevent introduction or spread of disease.

552. Control of diseases; cooperation with States.

553. Research laboratories for foot-and-mouth and other diseases.

554. Appointment of agents to make recommendations.

555. Cooperation with Mexico; foot-and-mouth disease and rinderpest; reports to Congress.

556. Cattle grubs, research and eradication.

557. International boundary fences.

558. Regulation of transportation and exportation generally.

559. Quarantine of infected areas.

560. Regulations for transportation from quarantined areas.

561. Transportation from quarantined areas prohibited; exceptions.

562. Transportation of diseased livestock or poultry prohibited.

563. Cattle reacting to tuberculin test, transportation of.

564. Domestic animals reacting to test for paratuberculosis or brucellosis.

565. Regulation and promotion of exports.

566. Suspension of importation.

567. Importation of diseased or exposed animals and poultry prohibited.

568. Importation prohibited except at quarantine stations.

569. Quarantine of imported animals and poultry.

570. Inspection and disposition of imported animals and poultry.

571. Disease control in District of Columbia.

572. Inspection by Department as precluding other inspections and fees.

573. Penalties.

574. Prosecution of violations; venue.

§ 551. Measures and regulations to prevent introduction or spread of disease.

The Secretary of Agriculture may—

(1) make regulations and take measures to prevent the introduction or dissemination of the contagion of any communicable disease of animals or poultry from a foreign country into the United States or from one State or Territory of the United States or the District of Columbia to another, and

(2) seize, quarantine, and dispose of any hay, straw, forage, or similar material, or any meats, hides, or other animal or poultry products coming from an infected foreign country to the United States, or from one State or Territory or the District of Columbia in transit to another State or Territory or the District of Columbia whenever in his judgment such action is advisable to guard against the introduction or spread of such contagion.

§ 552. Control of diseases; cooperation with States

(a) The Secretary of Agriculture shall prepare rules and regulations for the speedy and effectual control and eradication of dangerous communicable diseases of domestic animals and poultry. He shall certify such rules and regulations to the executive authority of each State and Territory, and invite said authorities to cooperate in the execution and enforcement of the provisions of this chapter. Whenever the plans and methods of the Secretary are accepted by any State or

Territory in which any such disease is declared to exist, or whenever such State or Territory adopts plans and methods for the control and eradication of the disease and such plans and methods are accepted by the Secretary of Agriculture, and whenever the governor of a State or other properly constituted authorities signify their readiness to cooperate for the extinction of the disease in conformity with the provisions of this chapter, the Secretary may expend so much of the money appropriated for carrying out the provisions of this chapter as may be necessary in such investigations, and in such disinfection and quarantine measures as may be necessary to prevent the spread of the disease from one State or Territory into another.

(b) The Secretary of Agriculture, either independently or in cooperation with States or political subdivisions thereof, farmers' associations, and similar organizations, and individuals, may control and eradicate tuberculosis and paratuberculosis of animals, avian tuberculosis, brucellosis of domestic animals, southern cattle ticks, hog cholera and related swine diseases, scabies in sheep and cattle, dourine in horses, scrapie and blue tongue in sheep, incipient or potentially serious minor outbreaks of diseases in animals and poultry, and communicable diseases of animals and poultry which in the opinion of the Secretary constitute an emergency and threaten the livestock industry of the country, including the purchase and destruction of diseased or exposed animals and poultry, or the destruction of such animals and poultry and the payment of indemnities therefor, in accordance with such regulations as the Secretary prescribes. As used in this subsection, the term "State" includes the District of Columbia and the Territories and possessions of the United States.

§ 553. Research laboratories for foot-and-mouth and other diseases

The Secretary of Agriculture may establish research laboratories, including the acquisition of necessary land, buildings, or facilities, and also the making of research contracts under the authority contained in section 4271 (a) of title 7, for research and study, in the United States or elsewhere, of foot-and-mouth disease and other animal and poultry diseases which in his opinion constitute a threat to the livestock or poultry industry of the United States.

No live virus of foot-and-mouth disease may be introduced for any purpose into any part of the mainland of the United States except coastal islands separated therefrom by waters navigable for deep-water navigation and which are not connected with the mainland by any tunnel, and except further, that in the event of outbreak of foot-and-mouth disease in this country, the Secretary of Agriculture may, at his discretion, permit said virus to be brought into the United States under adequate safeguards.

To carry out the provisions of this section, the Secretary may employ technical experts or scientists without regard to the Classification Act of 1949, but the number so employed shall not exceed five and the maximum compensation for each shall not exceed \$15,000 per annum. There is authorized to be appropriated such sums as Congress may deem necessary and, in addition, the Secretary may utilize, in carrying out this section, funds otherwise available for the control or eradication of such diseases.

§ 554. Appointment of agents to make recommendations

The Secretary of Agriculture may appoint two competent agents, who are practical stock raisers or experienced businessmen familiar with questions pertaining to commercial transactions in livestock or poultry, who shall, under the instructions of the Secretary, examine and report upon the best methods of treating, transporting, and caring

for animals and poultry, and the means to be adopted for the control and eradication of contagious pleuropneumonia, and provide against the spread of other dangerous communicable diseases. The compensation of such agents shall be at the rate of \$10 per diem, with all necessary expenses, while engaged in the actual performance of their duties under this section, when absent from their usual place of business or residence.

§ 555. Cooperation with Mexico; foot-and-mouth disease and rinderpest; reports to Congress

(a) The Secretary of Agriculture may cooperate with the Government of Mexico in carrying out operations or measures to eradicate, suppress, or control, or to prevent or retard, foot-and-mouth disease or rinderpest in Mexico where he deems such action necessary to protect the livestock and related industries of the United States. In performing such operations or measures, the Government of Mexico shall be responsible for the authority necessary to carry them out on all lands and properties in Mexico and for such other facilities and means as are necessary in the discretion of the Secretary of Agriculture. The measure and character of cooperation carried out under this section on the part of the United States and on the part of the Government of Mexico, including the expenditure or use of funds appropriated pursuant to this section, shall be such as may be prescribed by the Secretary of Agriculture. Arrangements for such cooperation shall be made through and in consultation with the Secretary of State. The authority contained in this section is in addition to and not in substitution for the authority of existing laws.

(b) For purposes of this section, funds appropriated pursuant thereto may also be used for (1) the purchase or hire of passenger motor vehicles and aircraft, (2) printing and binding without regard to section 111 of title 44, (3) the employment of civilian nationals of Mexico, and (4) the construction and operation of research laboratories, quarantine stations and other buildings and facilities.

(c) The Secretary of Agriculture shall make a report to the Congress on the last day of each month with respect to the activities carried on under this section.

§ 556. Cattle grubs, research and eradication

In order to protect, promote, and conserve livestock and livestock products and to minimize losses, the Secretary of Agriculture, either independently or in cooperation with States or subdivisions thereof, farmers' associations, and other organizations and individuals, may increase and intensify research and investigations into problems and methods relating to the eradication of cattle grubs and undertake measures to eradicate these parasites. As used in this section, the term "State" includes the District of Columbia and the Territories and possessions of the United States. Funds appropriated to carry out this section shall be expended in accordance with procedures prescribed by the Secretary.

§ 557. International boundary fences

The Secretary of Agriculture may permit the erection of fences along international boundary lines, but entirely within the territory of the United States, for the purpose of keeping out diseased animals and poultry.

§ 558. Regulation of transportation and exportation generally

In order to enable the Secretary of Agriculture effectually to control and eradicate dangerous communicable diseases in cattle and other livestock and poultry, and to prevent the spread of such diseases he shall establish such rules and regulations concerning the exportation and transportation of livestock and poultry from any place within the United States where he may have

reason to believe such diseases may exist into and through any State or Territory, and into and through the District of Columbia and to foreign countries as he deems necessary. All such rules and regulations shall have the force of law.

§ 559. Quarantine of infected areas

The Secretary of Agriculture shall quarantine any State or Territory or the District of Columbia, or any portion of any State or Territory or the District of Columbia, when he determines the fact that cattle or other livestock or poultry in such State or Territory or District of Columbia are affected with any communicable disease. He shall give written or printed notice of the establishment of quarantine to the proper officers of railroad, steamboat, or other transportation companies doing business in or through any quarantined State or Territory or the District of Columbia, and publish such notice in such newspapers in the quarantined State or Territory or the District of Columbia as he may select.

§ 560. Regulations for transportation from quarantined areas

The Secretary of Agriculture shall, when the public safety will permit, make and promulgate rules and regulations which shall permit and govern the inspection, disinfection, certification, treatment, handling, and method and manner of delivery and shipment of cattle or other livestock or poultry from a quarantined State or Territory or the District of Columbia, and from the quarantined portion of any State or Territory or the District of Columbia, into any other State or Territory or the District of Columbia. The Secretary shall give notice of such rules and regulations in the manner provided in section 559 of this title for notice of establishment of quarantine.

§ 561. Transportation from quarantined areas prohibited; exceptions

(a) No railroad company and no owners or masters of any vessel or boat shall receive for transportation or transport, no person shall deliver for transportation to any railroad company or to the master or owner of any vessel or boat, and no person shall drive or cause to be driven on foot or transport or cause to be transported by private conveyance, any cattle or other livestock or poultry from any quarantined State or Territory or the District of Columbia, or from any quarantined portion thereof, into any other State or Territory or the District of Columbia, except in compliance with rules and regulations promulgated by the Secretary of Agriculture under section 560 of this title.

(b) The provisions of subsection (a) of this section and sections 559, 560, and 573 (b) of this title shall apply to any railroad company or other common carrier whose road or line forms any part of a route over which cattle or other livestock or poultry are transported in the course of shipment from any quarantined State or Territory or the District of Columbia, or from the quarantined portion of any State or Territory or the District of Columbia, into any other State or Territory or the District of Columbia.

§ 562. Transportation of diseased livestock or poultry prohibited

No railroad company within the United States, and no owners or masters of any vessel or boat, shall receive for transportation or transport from one State or Territory to another, or from any State into the District of Columbia, or from the District into any State, any livestock or poultry affected with any communicable disease; nor shall any person deliver for such transportation to any railroad company, or master or owner of any boat or vessel, any livestock or poultry, knowing them to be affected with any communicable disease. No person

shall drive on foot, or transport in private conveyance, from one State or Territory to another, or from any State into the District of Columbia, or from the District into any State, any livestock or poultry, knowing them to be affected with any communicable disease.

§ 563. Cattle reacting to tuberculin test, transportation of

Cattle which have reacted to the tuberculin test may be shipped, transported, or moved from one State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia, for immediate slaughter, in accordance with such rules and regulations as shall be prescribed by the Secretary of Agriculture. The Secretary may, in his discretion, and under such rules and regulations as he may prescribe, permit cattle which have been shipped for breeding or feeding purposes from one State, Territory, or the District of Columbia to another State, Territory, or the District of Columbia, and which have reacted to the tuberculin test subsequent to such shipment, to be reshipped in interstate commerce to the original owner.

§ 564. Domestic animals reacting to test for paratuberculosis or brucellosis

Domestic animals which have reacted to a test recognized by the Secretary of Agriculture for paratuberculosis or which, never having been vaccinated for brucellosis, have reacted to a test recognized by the Secretary of Agriculture for brucellosis, may be shipped, transported, or otherwise moved from one State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia for immediate slaughter in accordance with such rules and regulations as the Secretary of Agriculture may prescribe to prevent the dissemination of said diseases from one State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia. The Secretary of Agriculture may, in his discretion and under such rules and regulations as he may prescribe, permit domestic animals which have been moved from one State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia, for breeding purposes, and which, subsequent to such movement, have reacted to a test for brucellosis or paratuberculosis recognized by the Secretary of Agriculture, to be reshipped in interstate commerce to the original owner at the point of origin.

§ 565. Regulation and promotion of exports

(a) The Secretary of Agriculture may take such steps and adopt such measures, not inconsistent with the provisions of this chapter, as he deems necessary to prevent the exportation from any port of the United States to any port in a foreign country of livestock or poultry affected with any communicable disease.

(b) In order to promote the exportation of livestock and poultry from the United States the Secretary of Agriculture shall make special investigation as to the existence of any communicable disease, along the borders between the United States and foreign countries, and along the lines of transportation from all parts of the United States to ports from which livestock or poultry are exported, and shall, from time to time, establish such regulations concerning the exportation and transportation of livestock or poultry as the results of such investigations may require.

(c) The Secretary of Agriculture, by such orders and regulations as he prescribes, may cause inspection to be made of all cattle, sheep, other ruminants, swine, and poultry intended for exportation, and provide for the disinfection of all vessels engaged in the transportation thereof, and of all barges or other vessels used in the conveyance of such animals and poultry to the ocean

steamer or other vessels, and of all attendants and their clothing, and of all headropes and other appliances used in such exportation. If, upon such inspection, any such animals or poultry are adjudged, under the Secretary's regulations, to be infected or to have been exposed to infection so as to be dangerous to other animals or poultry, they shall not be allowed to be placed upon any vessel for exportation. The expenses of all the inspection and disinfection provided for in this subsection shall be borne by the owners of the vessels on which such animals or poultry are exported.

(d) The Secretary shall cause to be made a careful inspection of all cattle, sheep, swine, and goats intended and offered for export to foreign countries at such times and places, and in such manner, as he deems proper to ascertain whether such animals are free from disease.

(e) No clearance shall be given to any vessel having on board cattle, sheep, swine, or goats for export to a foreign country until the owner or shipper of such animals has a certificate from an inspector stating that the animals are sound and healthy, or unless the Secretary has waived the requirement of such certificate for export to the particular country to which they are to be exported.

§ 566. Suspension of importation

Whenever, in the opinion of the President, it is necessary for the protection of animals, including poultry, in the United States against communicable diseases, he may, by proclamation, suspend the importation of all or any class of animals or poultry for a limited time, and may change, modify, revoke, or renew such proclamation, as the public good may require. During the time of such suspension the importation of any such animals or poultry shall be unlawful.

§ 567. Importation of diseased or exposed animals and poultry prohibited

No person shall import cattle, sheep, other ruminants, swine, and poultry, which are diseased or infected with any disease, or which have been exposed to such infection within 60 days next before their exportation. However, the Secretary of Agriculture may by regulations permit the admission from Mexico into the State of Texas of cattle which have been infested with or exposed to ticks upon being freed therefrom.

§ 568. Importation prohibited except at quarantine stations

No person shall import cattle, sheep, other ruminants, swine, and poultry except at ports designated as quarantine stations by the Secretary of Agriculture with the approval of the Secretary of the Treasury.

If any animals and poultry subject to quarantine are brought into any port of the United States where no quarantine station is established, the collector of such port shall require such animals and poultry to be conveyed to the nearest quarantine station by the vessel on which they are imported or are found, at the expense of the owner.

§ 569. Quarantine of imported animals and poultry

The Secretary of Agriculture may, at the expense of the owner, place and retain in quarantine all cattle, sheep, other ruminants, swine, and poultry imported into the United States, at ports designated by him for such purpose, and under such conditions as he by regulation prescribes, respectively, for the several classes of animals and poultry above described.

For the purpose of such quarantine, the Secretary may purchase, construct, or rent such lands, buildings, animals, tools, fixtures, and appurtenances as may be necessary, and he may appoint such veterinary surgeons, inspectors, officers, and employees as he deems necessary to maintain such quarantine and provide for the execution of the other

provisions of sections 565 (c), 566-570, and 573 (e) of this title.

§ 570. Inspection and disposition of imported animals and poultry

(a) The Secretary of Agriculture shall cause careful inspection to be made of all imported cattle, sheep, other ruminants, swine, and poultry, to ascertain whether such animals and poultry are infected with communicable diseases or have been exposed to infection so as to be dangerous to other animals and poultry. Such animals and poultry shall then be either placed in quarantine or dealt with according to the Secretary's regulations.

All food, litter, manure, clothing, utensils, and other appliances that have been so related to such animals and poultry on board ship as to be judged liable to convey infection shall be dealt with according to the Secretary's regulations.

(b) The Secretary of Agriculture may cause to be slaughtered such of the animals and poultry named in subsection (a) of this section as may be, under his regulations, adjudged to be infected with any communicable disease, or to have been exposed to infection so as to be dangerous to other animals and poultry. The value of animals and poultry slaughtered as being exposed to infection but not infected may be ascertained by agreement of the Secretary and the owners thereof if practicable; otherwise, by the appraisal by two persons familiar with the character and value of such property, appointed by the Secretary, whose decision, if they agree, shall be final; otherwise, the Secretary of Agriculture shall decide between them, and his decision shall be final. The amount of the value thus ascertained shall be paid to the owner thereof out of money in the Treasury appropriated for the use of the Bureau of Animal Industry or for the use of such other bureau or agency, or of any officer, of the Department of Agriculture, to which or to whom the Secretary may delegate the functions heretofore or hereafter exercised by him through the Bureau of Animal Industry; but no payment shall be made for any animals or poultry imported in violation of the provisions of sections 556-570 or 573 (e) of this title.

§ 571. Disease control in District of Columbia

Whenever any communicable disease affecting domestic animals or poultry is brought into or breaks out in the District of Columbia, the Commissioners of the District of Columbia shall take measures to suppress the disease promptly and to prevent it from spreading. For this purpose the Commissioners may (1) require that any premises or farms where such disease exists, or has existed, be put in quarantine; (2) order that all or any animals and poultry coming into the District be detained at any place for the purpose of inspection and examination; (3) prescribe regulations for and require the destruction of animals or poultry affected with communicable disease, and for the proper disposition of their hides and carcasses; and (4) prescribe regulations for disinfection, and such other regulations as they may deem necessary to prevent infection or contagion being communicated. The Commissioners shall report to the Secretary of Agriculture any actions taken under this section.

§ 572. Inspection by Department as precluding other inspections and fees

Whenever the Secretary of Agriculture, or any inspector or assistant inspector of the Department of Agriculture designated by the Secretary for such purpose, issues a certificate showing that such officer has inspected any cattle or other livestock or poultry which are about to be shipped, driven, or transported from one locality to another as stated in section 558 of this title, and has found them free from any communicable disease, such animals or poultry, so inspected and

certified, may be shipped, driven, or transported from such place into and through any State or Territory or the District of Columbia, or they may be exported from the United States, without further inspection or the exaction of fees of any kind, except such as may at any time be ordered or exacted by the Secretary of Agriculture. For the purposes of such inspection, all such animals and poultry shall at all times be under the control and supervision of the Secretary of Agriculture.

§ 573. Penalties

(a) Whoever knowingly violates section 551, 558, or 572 of this title or the orders or regulations made in pursuance thereof shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both.

(b) Whoever violates section 561 of this title shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both.

(c) The Secretary of Agriculture shall give notice of the existence of contagion in any infected locality by notice, in writing, to the proper officials or agents of any railroad, steamboat, or other transportation company doing business in or through such locality, and by publication in such newspapers as he may select. Whoever, being a person operating any such railroad, or master or owner of any boat or vessel, or owner or custodian of or person having control over such cattle or other livestock or poultry within such infected district, knowingly violates section 562 of this title shall be fined not more than \$5,000 or imprisoned not more than 1 year, or both.

(d) Whoever violates section 565 (d) (e) of this title shall be fined not more than \$10,000 or imprisoned not more than 1 year, or both.

(e) Whoever knowingly violates section 567 of this title shall be fined not more than \$5,000 or imprisoned not more than 3 years. Any vessel or vehicle used in such unlawful importation within the knowledge of the master or owner of such vessel or vehicle that such importation is diseased or has been exposed to infection as described in section 567 of this title, shall be forfeited to the United States.

§ 574. Prosecution of violations; venue

The several United States attorneys shall prosecute all violations of this chapter which are brought to their notice by any person making complaint under oath, in the United States district court or Territorial court held within the district in which the violation has been committed.

Chapter 57—Serums and analogous products

Sec.

611. Preparation and sale of serum, etc.

612. Licensing and inspection of establishments.

613. Regulations for preparation and sale.

614. Importation regulated and prohibited.

615. Permits for and inspection of imports.

616. Revocation or suspension of licenses or permits.

617. Penalties.

§ 611. Preparation and sale of serum, etc.

No person shall prepare, sell, barter, or exchange in the District of Columbia, in the Territories, or in any place under the jurisdiction of the United States, or ship or deliver for shipment from one State or Territory or the District of Columbia to any other State or Territory or the District of Columbia—

(1) any worthless, contaminated, dangerous, or harmful virus, serum, toxin, or analogous product intended for use in the treatment of domestic animals; or

(2) any virus, serum, toxin, or analogous product manufactured within the United States and intended for use in the treatment of domestic animals, unless and until such product has been prepared, under and in compliance with regulations prescribed by the Secretary of Agriculture, at an establish-

ment holding an unsuspended and unrevoked license issued by the Secretary under this chapter.

§ 612. Licensing and inspection of establishments

(a) The Secretary of Agriculture may issue, suspend, and revoke licenses for the maintenance of establishments for the preparation of viruses, serums, toxins, and analogous products, for use in the treatment of domestic animals, intended for sale, barter, exchange, or shipment as specified in section 611 of this title.

(b) All licenses issued to establishments under this chapter shall be issued on condition that the licensee shall permit the inspection of such establishments and of such products and their preparation. Any officer, agent, or employee of the Department of Agriculture duly authorized by the Secretary for the purpose may enter and inspect any establishment licensed under this chapter at any hour of the day or night.

§ 613. Regulations for preparation and sale

The Secretary of Agriculture may make and promulgate from time to time such rules and regulations as may be necessary to prevent the preparation, sale, barter, or shipment as specified in section 611 of this title of any worthless, contaminated, dangerous, or harmful virus, serum, toxin, or analogous product for use in the treatment of domestic animals.

§ 614. Importation regulated and prohibited

No person shall import into the United States, without a permit from the Secretary of Agriculture, any virus, serum, toxin, or analogous product for use in the treatment of domestic animals, and no person shall import into the United States any worthless, contaminated, dangerous, or harmful virus, serum, toxin, or analogous product for use in the treatment of domestic animals.

§ 615. Permits for and inspection of imports

(a) The Secretary of Agriculture may issue permits for the importation into the United States of viruses, serums, toxins, and analogous products, for use in the treatment of domestic animals, which are not worthless, contaminated, dangerous, or harmful.

(b) The Secretary may cause to be examined and inspected all viruses, serums, toxins, and analogous products, for use in the treatment of domestic animals, which are being imported or offered for importation into the United States, to determine whether such products are worthless, contaminated, dangerous, or harmful. If it appears that any such product is worthless, contaminated, dangerous, or harmful, such product shall be denied entry and shall be destroyed or returned at the expense of the owner or importer.

§ 616. Revocation or suspension of licenses or permits

The Secretary of Agriculture may suspend or revoke any license or permit issued under this chapter, after opportunity for hearing has been granted the licensee or importer, when the Secretary is satisfied that such license or permit is being used to facilitate or effect the preparation, sale, barter, exchange, or shipment as specified in section 611 of this title, or the importation into the United States, of any worthless, contaminated, dangerous, or harmful virus, serum, toxin, or analogous product for use in the treatment of domestic animals.

§ 617. Penalties

Whoever violates any of the provisions of this chapter shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both.

PART III.—NARCOTICS

Chapter	Section
91. Administration.....	711
93. Narcotics import and export.....	761
95. Domestic opium poppy production control.....	811

Chapter 91—Administration

Sec.

711. Administration of part III; delegation of functions.

712. Departmental cooperation in discharge of international obligations.

713. Cooperation with States in suppression of abuse.

714. Payments for information.

§ 711. Administration of part III; delegation of functions

Except as otherwise provided by law, the administration and enforcement of this part are vested in the Secretary of the Treasury. Such Secretary's functions under this part shall be performed by him or, subject to his direction and control, by such officers, agencies, and bureau of the Department of the Treasury as he designates.

§ 712. Departmental cooperation in discharge of international obligations

The Secretary of the Treasury shall cooperate with the Secretary of State in the discharge of the international obligations of the United States concerning the traffic in narcotic drugs.

§ 713. Cooperation with States in suppression of abuse

(a) The Secretary of the Treasury shall cooperate with the several States in the suppression of the abuse of narcotic drugs in their respective jurisdictions, and to that end he may:

(1) Cooperate in the drafting of such legislation as may be needed to effect the end named; and

(2) Arrange for the exchange of information concerning the use and abuse of narcotic drugs in said States and for cooperation in the institution and prosecution of cases in the courts of the United States and before the licensing boards and courts of the several States.

(b) The Secretary of the Treasury may prescribe such regulations as may be necessary to carry out the purposes of this section.

§ 714. Payments for information concerning violations of laws

The Secretary of the Treasury may pay to any person, from funds now or hereafter appropriated for the enforcement of the narcotic laws of the United States, for information concerning a violation of any narcotic law of the United States, resulting in a seizure of contraband narcotics, such sum or sums of money as he may deem appropriate, without reference to any moiety or rewards to which such person may otherwise be entitled by law. All payments under authority of this section to any informer in any foreign country shall be made only through an accredited consul or vice consul of the United States stationed in such country, and every such payment shall be supported by a voucher with an accompanying certificate of such consul or vice consul that the payment of the amount stated on the voucher has been made to the informer named, and at the place and time specified on such voucher.

Chapter 93—Narcotics import and export

Sec.

761. Definitions.

762. Rules and regulations.

763. Importation; exceptions and restrictions; forfeitures.

764. Import for purpose of transportation to another country; transfer between vessels.

765. Penalty for unlawful import, receipt, transportation or sale; subsequent offenses; procedure; evidence; liability of masters and persons in charge.

766. Presumption and burden of proof as to importation of smoking opium.

767. Exportation; exception; laws of foreign governments.

768. Penalty for unlawful export.

769. Penalty for having in possession or control on board United States vessel.

770. Penalty for possession, receipt, or concealment of smoking opium; evidence; liability of masters and persons in charge.

771. Share of fine to informer.

772. Short title.

§ 761. Definitions

As used in this chapter, unless the context requires a different meaning—

(a) "narcotic drug" shall have the same meaning ascribed to the term "narcotic drugs" as used in the Internal Revenue Code;

(b) "United States," when used in a geographical sense, includes the several States and Territories, and the District of Columbia;

(c) "Secretary" means the Secretary of the Treasury;

(d) "person" means an individual, partnership, corporation, or association:

§ 762. Rules and regulations

The Secretary shall prescribe and publish all proper rules and regulations to carry into effect the authority vested in him by this chapter.

§ 763. Importation; exceptions and restrictions; forfeitures

(a) No narcotic drug may be imported or brought into the United States or any territory under its control or jurisdiction, except that, under such regulations as the Secretary shall prescribe—

(1) Such amounts of crude opium and coca leaves as the Secretary finds to be necessary to provide for medical and scientific uses may be so imported or brought in; but no crude opium may be imported or brought in for the purpose of manufacturing heroin, and the Secretary may limit further or prohibit entirely the importation or bringing in of crude opium, to the extent that he finds that the medical and scientific needs of the United States for opium or opium products are being, or can be, supplied by opium poppies produced in accordance with chapter 95 of this title; and

(2) Amounts of coca leaves in addition to the amount permitted under paragraph (1) of this subsection may be imported or brought in; but after the entry of such additional amounts into the United States or any territory under its control or jurisdiction, all cocaine, ecgonine, and all salts, derivatives, and preparations from which cocaine or ecgonine may be synthesized or made, contained therein, shall be destroyed under the supervision of the Secretary or his authorized representative.

(b) All narcotic drugs imported under subsection (a) of this section shall be subject to the duties which are now or may hereafter be imposed upon such drugs when imported.

(c) Any narcotic drug imported or brought into the United States or any territory under its control or jurisdiction, contrary to law, shall—

(1) If smoking opium or opium prepared for smoking, be seized and summarily forfeited to the United States Government without the necessity of instituting forfeiture proceedings of any character; or

(2) If any other narcotic drug be seized and forfeited to the United States Government, without regard to its value, in the manner provided by sections 1607 and 1608 of title 19, or the provisions of law hereafter enacted which are amendatory of, or in substitution for, such sections.

(d) Any narcotic drug which is forfeited in a proceeding for condemnation or not claimed under sections 1607 and 1608 of title 19, or which is summarily forfeited as provided in subsection (c) of this section, shall be placed in the custody of the Secretary and in his discretion be destroyed or delivered to some agency of the United States Government for use for medical or scientific purposes.

§ 764. Import for the purpose of transportation to another country; transfer between vessels

No smoking opium or opium prepared for smoking shall be admitted into the United States or into any territory under its control or jurisdiction for transportation to another country, or be transferred or transshipped from one vessel to another vessel within any waters of the United States for immediate exportation or for any other purpose; and except with the approval of the Secretary, no other narcotic drug may be so admitted, transferred, or transshipped.

§ 765. Penalty for unlawful import, receipt, transportation or sale; subsequent offenses; procedure; evidence; liability of masters and persons in charge

(a) Whoever fraudulently or knowingly imports or brings any narcotic drug into the United States or any territory under its control or jurisdiction, contrary to law, or receives, conceals, buys, sells, or in any manner facilitates the transportation, concealment, or sale of any such narcotic drug after being imported or brought in, knowing the same to have been imported contrary to law, or conspires to commit any of such acts in violation of the laws of the United States, shall be fined not more than \$2,000 and imprisoned not less than 2 or more than 5 years. For a second offense, the offender shall be fined not more than \$2,000 and imprisoned not less than 5 or more than 10 years. For a third or subsequent offense, the offender shall be fined not more than \$2,000 and imprisoned not less than 10 or more than 20 years. Upon conviction for a second or subsequent offense, the imposition or execution of sentence shall not be suspended and probation shall not be granted. For the purpose of this subsection, an offender shall be considered a second or subsequent offender, as the case may be, if he previously has been convicted of any offense the penalty for which is provided in this subsection or in section 7237 (a) (b) (1) of the Internal Revenue Code, or if he previously has been convicted of any offense the penalty for which was provided in section 9, chapter 1, of the act of December 17, 1914 (38 Stat. 789), as amended; section 1, chapter 202 of the act of May 26, 1922 (42 Stat. 596), as amended; section 12, chapter 553, of the act of August 2, 1937 (50 Stat. 556), as amended; or section 7237 (a) of the Internal Revenue Code, as amended. After conviction, but prior to pronouncement of sentence, the court shall be advised by the United States attorney whether the conviction is the offender's first or a subsequent offense. If it is not a first offense, the United States attorney shall file an information setting forth the prior convictions. The offender shall have the opportunity in open court to affirm or deny that he is identical with the person previously convicted. If he denies the identity, sentence shall be postponed for such time as to permit a trial before a jury on the sole issue of the offender's identity with the person previously convicted. If the offender is found guilty by the jury to be the person previously convicted, or if he acknowledges that he is such person, he shall be sentenced as prescribed in this subsection.

Whenever on trial for a violation of this subsection the defendant is shown to have or to have had possession of the narcotic drug, such possession shall be deemed sufficient evidence to authorize conviction unless the defendant explains the possession to the satisfaction of the jury.

(b) No master of any vessel or other watercraft, or person in charge of a railroad car or other vehicle, shall be liable under subsection (a) of this section if he satisfies the jury that he had no knowledge of and used due diligence to prevent the presence of the narcotic drug in or on such vessel, watercraft, railroad car, or other vehicle; but the

narcotic drug shall be seized, forfeited, and disposed of as provided in subsections (c) and (d) of section 763 of this title.

§ 766. Presumption and burden of proof as to importation of smoking opium

All smoking opium or opium prepared for smoking found within the United States shall be presumed to have been imported contrary to law, and the burden of proof shall be on the claimant or the accused to rebut such presumption.

§ 767. Exportation; exceptions; laws of foreign governments

(a) No person subject to the jurisdiction of the United States Government shall export or cause to be exported from the United States, or from territory under its control or jurisdiction, any narcotic drug to any other country except to a country which has ratified and become a party to the convention and final protocol between the United States Government and other powers for the suppression of the abuses of opium and other drugs, commonly known as the International Opium Convention of 1912, and then only if—

(1) such country has instituted and maintains, in conformity with that convention, a system, which the Secretary deems adequate of permits or licenses for the control of imports of such narcotic drugs;

(2) the narcotic drug is consigned to an authorized permittee; and

(3) there is furnished to the Secretary proof deemed adequate by him that the narcotic drug is to be applied exclusively to medical and scientific uses within the country to which exported, that it will not be reexported from such country, and that there is an actual shortage of and a demand for the narcotic drug for medical and scientific uses within such country.

(b) The exceptions contained in subsection (a) of this section shall not apply to smoking opium or opium prepared for smoking, the exportation of which is absolutely prohibited.

(c) The Secretary of State shall request all foreign governments to communicate through the diplomatic channels copies of the laws and regulations promulgated in their respective countries which prohibit or regulate the importation and shipment in transit of any narcotic drug and, when received, shall advise the Secretary thereof.

§ 768. Penalty for unlawful export

Any person who exports, or conspires to export, any narcotic drugs in violation of section 767 of this title shall be fined not more than \$5,000 or imprisoned not more than 2 years, or both.

§ 769. Penalty for having in possession or control on board United States vessel

(a) Any person who brings on board, or has in his possession or control on board, any vessel of the United States, while engaged on a foreign voyage, any narcotic drug not constituting a part of the cargo entered in the manifest or part of the ship stores, shall be fined not more than \$5,000 or imprisoned not more than 5 years, or both.

(b) As used in subsection (a) of this section, "narcotic drug" means any narcotic drug defined by section 761 of this title, or "marihuana" as defined in the Internal Revenue Code.

§ 770. Penalty for possession, receipt, or concealment of smoking opium; evidence; liability of masters and persons in charge

(a) Any person, subject to the jurisdiction of the United States, who, either as principal or as accessory, receives or has in his possession, or conceals on board of or transports on any foreign or domestic vessel or other watercraft or railroad car or other vehicle destined to or bound from the United States or any possession thereof, any smoking opium or opium prepared for smoking

ing, or who, having knowledge of the presence in or on any such vessel, watercraft, or vehicle of such article, does not report the same to the principal officer thereof, shall be punished as provided in section 765 of this title. Whenever on trial for violation of this section the defendant is shown to have or to have had possession of such opium, such possession shall be deemed sufficient evidence to authorize conviction, unless the defendant shall explain the possession to the satisfaction of the jury.

(b) No master of a vessel or other watercraft or person in charge of a railroad car or other vehicle shall be liable under this section if he satisfies the jury that he had no knowledge and used due diligence to prevent the presence of such article in or on such vessel, watercraft, car, or other vehicle; but any such article shall be forfeited and destroyed.

§ 771. Share of fine to informer

One-half of any fine recovered from any person or persons convicted of an offense under this chapter may be paid to the person or persons giving information leading to such recovery, and one-half of any bail forfeited and collected in any proceedings brought under this chapter may be paid to the person or persons giving the information which led to the institution of such proceedings, if so directed by the court exercising jurisdiction in the case. No payment for giving information shall be made to any officer or employee of the United States.

§ 772. Short title

This chapter may be cited as the "Narcotic Drugs Import and Export Act."

Chapter 95—Domestic opium poppy production control

Sec.

811. Declaration of policy; assistance from Federal agencies.

812. Definitions.

813. Rules and regulations.

814. Licenses; qualifications; limitations; revocation and renewal.

815. Distribution by Federal Government; personnel of Treasury Department excepted from prohibitions.

816. Production, purchase, manufacture, sale or transportation by unlicensed persons.

817. Seizure and forfeiture of opium poppies illegally possessed; disposition.

818. Penalties.

819. Pleading, presumptions, and burden of proof.

820. Application to, and of, other laws.

821. Territorial application.

822. Short title.

§ 811. Declaration of policy; assistance from Federal agencies

(a) It is the purpose of this chapter to—

(1) discharge more effectively the obligations of the United States under the International Opium Convention of 1912, and the Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs of 1931, as amended by the protocol signed at Lake Success, New York, on December 11, 1946;

(2) promote the public health and the general welfare;

(3) regulate interstate and foreign commerce in opium poppies; and

(4) safeguard the revenue derived from taxation of opium and opium products.

(b) Other departments, bureaus, and independent establishments of the Government, when requested by the Secretary of the Treasury, shall furnish such assistance, including technical advice, as will aid in carrying out the purposes of this chapter.

§ 812. Definitions

As used in this chapter—

1. "produce" or "production" includes the planting, cultivation, growth, harvesting, and

any other activity which facilitates the growth of the opium poppy.

2. "opium poppy" includes the plant *Papaver somniferum*, any other plant which is the source of opium or opium products, and any part of any such plant;

3. "opium" includes the inspissated juice of the opium poppy, in crude or refined form;

4. "opium products" includes opium and all substances obtainable from opium or the opium poppy, except the seed thereof;

5. "Secretary" means the Secretary of the Treasury;

6. "person" means an individual, company, partnership, corporation, or association.

§ 813. Rules and regulations

The Secretary may prescribe and publish all necessary rules and regulations for carrying out the provisions of this chapter.

§ 814. Licenses; qualifications; limitations; revocation and renewal

(a) Any person who desires to procure a license to produce the opium poppy, or to manufacture opium or opium products, shall make application therefor in such manner and form as the Secretary shall by rules and regulations prescribe.

(b) A license to produce the opium poppy shall be issued only to a person who, in the opinion of the Secretary, is determined to be a person—

(1) of good moral character;

(2) of suitable financial standing and farming experience;

(3) who owns or controls suitable farmland to be used as a production area, in such locality, as well, in the judgment of the Secretary, render reasonably probable the efficient and diligent performance of the operation of producing the opium poppy in appropriate number and quality; and

(4) who complies with such additional requirements as the Secretary shall deem and prescribe as reasonably necessary for the controlled production and distribution of the opium poppy.

Each such license shall be nontransferable and shall be valid only to the extent of the production area and maximum weight of opium poppy yield specified in the license, shall state the locality of the production area, and shall be effective for a period of 1 year from the date of issue and may be renewed, in the discretion of the Secretary, for a like period.

(c) A license to manufacture opium or opium products shall be issued only to a person who, in the opinion of the Secretary, is determined to be a person—

(1) of good moral character;

(2) who possesses a method and facilities, deemed satisfactory to the Secretary, for the efficient and economical extraction of opium or opium products;

(3) who has such experience in manufacturing and marketing other medical drugs as to render reasonably probable the orderly and lawful distribution of opium or opium products of suitable quality to supply medical and scientific needs; and

(4) who complies with such additional requirements as the Secretary shall deem and prescribe as reasonably necessary for the controlled production, manufacture, and distribution of the opium poppy, opium, or opium products.

Such license shall be nontransferable, shall state the maximum quantity of opium poppies purchasable or obtainable thereunder, and shall be effective for a period of 1 year from the date of issue and may be renewed, in the discretion of the Secretary, for a like period.

(d) All licenses issued under this section shall be limited to such number, localities, and areas as the Secretary shall determine to be appropriate to supply the medical and scientific needs of the United States for opium or opium products, with due regard to provision for reasonable reserves. Nothing

contained in this section shall be construed as requiring the Secretary to issue or renew any license or licenses under the provisions hereof.

(e) The Secretary may revoke or refuse to renew any license issued under this section, if, after due notice and opportunity for hearing, he finds such action to be in the public interest, or finds that the licensee has failed to maintain the requisite qualifications.

§ 815. Distribution by Federal Government; personnel of Treasury Department excepted from prohibitions

(a) The Secretary, whenever in his opinion the medical and scientific needs of the Nation will not be met by importation or licensed production, shall provide for the acquisition of opium poppy seed, for the production of the opium poppy, for the manufacture of opium or opium products, and for the use, sale, giving away, or other proper distribution of opium poppy seed, opium poppies, opium, or opium products by the United States Government either directly or through and with the approval of the head of any agency of the Government, including any Government-owned or controlled corporation.

(b) None of the prohibitions contained in this chapter shall apply to any officer or employee of the United States Treasury Department who in the performance of his official duties and within the scope of his authority engages in any of the business or activities herein described, nor to any other officer or employee of the United States Government, who in the performance of his official duties, within the scope of his authority and with the approval of the Secretary, engages in any of the businesses or activities herein described.

§ 816. Production, purchase, manufacture, sale or transportation by unlicensed persons

(a) No person who is not the holder of a proper license authorizing him to produce the opium poppy, duly issued to him by the Secretary, shall produce or attempt to produce the opium poppy, or permit the production of the opium poppy in or upon any place owned, occupied, used, or controlled by him.

(b) Except as otherwise provided in subsection (e) of this section, no person shall—

(1) purchase or in any other manner obtain the opium poppy, unless he is the holder of a proper license to produce the opium poppy or to manufacture opium or opium products, duly issued to him by the Secretary; or

(2) sell, transfer, convey any interest in, or give away the opium poppy to any person not so licensed.

(c) No person who is not the holder of a proper license authorizing him to manufacture opium or opium products, duly issued to him by the Secretary, shall manufacture, compound, or extract opium or opium products from the opium poppy.

(d) No person who is not the holder of a proper license authorizing him to produce the opium poppy or to manufacture opium or opium products, duly issued to him by the Secretary, shall send, ship, carry, transport, or deliver any opium poppies within any State, Territory, the District of Columbia, the Canal Zone, or insular possession of the United States, or from any State, Territory, the District of Columbia, the Canal Zone, or insular possession of the United States, into any other State, Territory, the District of Columbia, the Canal Zone, or insular possession of the United States. Nothing contained in this subsection shall apply to any common carrier engaged in transporting opium poppies pursuant to an agreement with a person duly licensed under section 814 of this title as a producer of the opium poppy, or as a

manufacturer of opium or opium products, or to any employee of any person so licensed while acting within the scope of his employment.

(e) No person shall sell, transfer, convey any interest in, or give away, except to a person duly licensed under section 814 of this title, opium poppy seed for the purpose of opium poppy production, nor shall any unlicensed person purchase or otherwise obtain such seed for such purpose; but the seed obtained from opium poppies produced by licensed producers may be sold or transferred by such producers to unlicensed persons, and may thereafter be resold or transferred, for ultimate consumption as a spice seed or for the manufacture of oil.

§ 817. Seizure and forfeiture of opium poppies illegally possessed; disposition

(a) Any opium poppies produced or otherwise obtained in violation of any of the provisions of this chapter shall be seized by, and forfeited to, the United States.

(b) The failure, upon demand by the Secretary, or his duly authorized agent, of the person in occupancy or control of land or premises upon which opium poppies are being produced or stored to produce an appropriate license, or proof that he is the holder thereof, shall constitute authority for the seizure and forfeiture of such opium poppies.

(c) The Secretary, or his duly authorized agent, shall have authority to enter upon any land (but not a dwelling house, unless pursuant to a search warrant issued according to law) where opium poppies are being produced or stored, for the purposes of enforcing the provisions of this chapter.

(d) Any opium poppies, the owner or owners of which are unknown, seized by or coming into the possession of the United States in the enforcement of this chapter shall be forfeited to the United States.

(e) The Secretary shall destroy any opium poppies seized by, and forfeited to, the United States under this section, or deliver them for medical or scientific purposes to any department, bureau, or other agency of the United States Government, upon proper application therefor under such regulations as he may prescribe.

§ 818. Penalties

(a) Any person who violates any provision of this chapter shall be fined not more than \$2,000 or imprisoned not more than 5 years, or both.

(b) Any person who willfully makes, aids, or assists in the making of, or procures, counsels, or advises in the preparation or presentation of, a false or fraudulent statement in any application for a license under the provisions of section 814 of this title shall (whether or not such false or fraudulent statement is made by or with the knowledge or consent of the person authorized to present the application) be fined not more than \$2,000 or imprisoned not more than 1 year, or both.

§ 819. Pleading, presumptions, and burden of proof

It shall not be necessary to negative any exemptions set forth in this chapter in any

complaint, information, indictment, or other writ or proceeding laid or brought under this chapter and the burden of proof of any such exemption shall be upon the defendant. In the absence of the production of an appropriate license by the defendant, he shall be presumed not to have been duly licensed in accordance with section 814 of this title and the burden of proof shall be on the defendant to rebut such presumption.

§ 820. Application to, and of, other laws

Nothing in this chapter shall be construed to repeal any provisions of the Internal Revenue Code, but nothing in that code shall apply to the production, sale, or transfer of opium poppies, when such opium poppies are lawfully produced, sold, or transferred by persons duly and properly licensed under section 814 of this title in conformity with the regulations issued pursuant to such section.

§ 821. Territorial application

The provisions of this chapter shall apply to the several States, the District of Columbia, the Territory of Alaska, the Territory of Hawaii, the Canal Zone, Puerto Rico, and the other insular possessions of the United States.

§ 822. Short title

This chapter may be cited as the "Opium Poppy Control Act".

SEC. 2. Section 1 of the act approved May 29, 1884 (ch. 60, 23 Stat. 31; 7 U. S. C., sec. 391), as amended, is amended to read as follows:

"SECTION 1. There shall be in the Department of Agriculture a Bureau of Animal Industry. The Secretary of Agriculture is authorized to appoint a chief thereof, who shall be a competent veterinary surgeon. The functions of the Bureau of Animal Industry shall be vested in the Secretary of Agriculture or, subject to his direction and control, in such officers and agencies of the Department of Agriculture as he may designate. Such functions shall include the duty to investigate and report upon the condition of the domestic animals and poultry of the United States, their protection and use, and also to inquire into and report the causes of communicable diseases among them, and the means for the prevention and cure of the same, and to collect such information on these subjects as shall be valuable to the agricultural and commercial interests of the country."

SEC. 3. The first paragraph of section 1 of the act approved March 28, 1928 (ch. 266, 45 Stat. 374; 31 U. S. C., sec. 529a), as amended, is amended (1) by striking out "Division of Disbursement", as now appearing in such paragraph, and, in lieu thereof, inserting "Fiscal Service" and (2) by striking out, after the first semicolon, "the act entitled 'An act to amend an act entitled 'An act to prohibit the importation and use of opium for other than medicinal purposes', approved February 9, 1909", as amended, known as the 'Narcotic Drugs Import and Export Act'", and inserting in lieu thereof "chapter 93 of Title 21, United States Code".

SEC. 4. (a) Subsection (a) of section 302 of the act approved July 1, 1944 (chapter

373, Title III, 58 Stat. 692; 42 U. S. C., sec. 242) is amended by striking out the reference "the Narcotic Drugs Import and Export Act, as amended", appearing at the end of such subsection, and inserting in lieu thereof "chapter 93 of Title 21, United States Code".

(b) Subsection (d) of section 7 of the act approved August 9, 1939 (chapter 618, 53 Stat. 1293; 49 U. S. C., sec. 787 (d)), as amended, is amended by striking out the reference "the Narcotic Drugs Import and Export Act," appearing in such subsection.

SEC. 5. The opening clause of subsection (f) of section 15 of the Federal Trade Commission Act (15 U. S. C., sec. 55 (f)) as amended, which subsection was added to such section 15 by section 4 (b) of the act approved March 16, 1950 (ch. 61, 64 Stat. 21), is amended by striking out "and section 407 of the Federal Food, Drug, and Cosmetic Act, as amended".

SEC. 6. If any part of title 21, United States Code, as set out in section 1 of this act, shall be held invalid, the remainder of such title shall not be affected thereby.

SEC. 7. No inference of a legislative construction is to be drawn by reason of the chapter in title 21, United States Code, as set out in section 1 of this act, in which any section is placed, nor by reason of the catchlines used in such title.

SEC. 8. All orders, rules, and regulations in effect on the effective date of this act, which were adopted under the authority of the acts of Congress from which title 21, United States Code, as set out in section 1 of this act, is derived, shall continue in effect until modified, amended, superseded, or repealed under the authority of such title.

SEC. 9. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of title 21, United States Code, as set out in section 1 of this act.

SEC. 10. This act shall take effect on January 1, 1955, except that, with respect to pesticide chemicals for which tolerances or exemptions have not been established under section 408 of the Federal Food, Drug, and Cosmetic act as in effect prior to the enactment of this act or under section 56 of the Federal Food, Drug, and Cosmetic Act as enacted by section 1 of this act, the provisions of clause (2) of section 52 (a) of title 21, United States Code, set out in section 1 of this act which relate to pesticide chemicals in or on raw agricultural commodities shall not be effective—

(1) for the period of one year following July 22, 1954; or

(2) for such additional period following such period of one year, but not extending beyond two years after July 22, 1954, as the Secretary of Health, Education, and Welfare may prescribe on the basis of a finding that conditions exist which necessitate the prescribing of such additional period.

SEC. 11. The sections or parts thereof of the Statutes at Large enumerated in the following schedule are hereby repealed. Any rights or liabilities now existing under such sections or parts thereof shall not be affected by this repeal.

Statutes at Large

U. S. Code

Date	Chapter	Title	Section	Volume	Page	Title	Section
1884—May 29	60		2, 3, 4, 5, 6, 7, 8, 9	23	31-33	21	112, 113, 114, 117-120, 130
Do	60		10	23	33	7	391 note
1887—Feb. 23	210		1, 2, 3	24	409	21	112 note
1890—Aug. 30	839		1, 2, 3	26	414, 415	21	191-193
Do	839		4, 6, 7, 8, 9, 10	26	415-417	21	1 note, 71 note
1897—Mar. 2	358		1, 2, 3, 4, 5, 6, 7, 8, 9, 10	29	604-607	21	18, 101-105
1902—May 9	784		1	32	193	21	41-46, 47-50
July 1	1357		1, 2	32	632	21	16, 17
1903—Feb. 2	349		1, 2, 3	32	791, 792	21	111, 112, 113, 120-122
1905—Mar. 3	1496		1, 2, 3, 4, 6	33	1264, 1265	21	123-127

Statutes at Large						U. S. Code	
Date	Chapter	Title	Section	Volume	Page	Title	Section
1906—June 30	3913 (part)			34	1 679	21	95
1907—Mar. 4	2907 (part)			34	1 1260-1265	21	71-92
1908—May 16	170			35	163	21	41
May 23	192 (part)			35	254	21	94a
1909—Feb. 9	4100		1, 2, 3, 4, 5, 6, 7, 8, 9	35	614	21	171-173, 174, 176-184, 185
1910—May 26	256 (part)			36	440	21	131
1913—Mar. 4	145 (part)			37	832, 833	21	151-158
1914—June 30	131 (part)			38	419	21	128
Do	131 (part)			38	420	21	94
1915—Mar. 3	74		1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13	38	817-822	21	201-215
Mar. 4	144 (part)			38	1102	21	21
1917—Aug. 10	52			40	275	21	106, 107
1918—Nov. 21	212			40	1048, 1049	21	106, 107
1919—July 24	26 (part)			41	241	21	96
Do	26 (part)			41	271	21	321b
1920—May 31	217 (part)			41	699	21	116
Do	217 (part)			41	712, 713	21	41-44, 46-50
1923—Mar. 4	262		1, 2, 3	42	1486, 1487	21	61-63
Do	262		14 4			21	64
Do	268			42	1500	21	321a
1926—June 28	700		1, 2	44	774, 775	21	104, 115, 115 note
1927—Jan. 18	39 (part)			44	984	21	26
Feb. 15	155		1, 2, 3, 4, 5, 6, 7, 8, 9	44	1101-1103	21	141-149
Mar. 4	489		1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12	44	1406-1410	15	401-409, 409 note, 410, 411
1928—Feb. 7	30			45	59	7	16 391
May 16	572 (part)			45	548	21	111-115, 117-126, 128, 130
1929—Feb. 16	22 (part)			45	1198	21	26
1930—June 14	488		6, 7, 8	46	587	21	173a, 197, 198
July 3	829			46	850	21	199
1931—Feb. 28	348			46	1460	21	104
1934—June 22	712			48	1204	21	372a
June 26	756		19 2	48	1225	21	95
1935—Aug. 27	739			49	871	21	372a
1938—June 25	675		All	52	1040-1059	21	301, 321, 321a, 321b, 331-337, 341-346, 346a, 351-357, 361-364, 371, 372, 372a, 373-376, 381, 391, 392, and notes thereunder, and notes preceding 61, 141
June 29	810			52	1235	21	91
1939—May 2	107	I	1 (part)	53	631	21	376 note
June 23	242		1, 2, 3	53	853, 854	21	342 note, 343 note, 351 note, 352, 352 note, 361 note, 362 note
1940—June 27	437	I	101 (part)	54	632	21	46a
1941—July 1	269	II (part)		55	478	21	46a
July 11	289		1, 2	55	584	21	184s, 184a note
Dec. 22	613		1, 2, 3, 4	55	851, 852	21	331, 352, 356, 356 note
1942—Dec. 11	720		1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17	56	1045-1049	21	188, 188 note, 188a-188n
1943—July 12	221	II	1 (part)	57	500	21	372a
1944—Mar. 2	77			58	108	21	321e
1944—Sept. 21	412	I	101 (a)	58	734	21	114a
1945—July 6	281		1, 2, 3	59	463, 464	21	331, 352, 357
1947—Feb. 28	8		1, 2, 3, 4	61	7, 8	21	114b, 114h note, 114c, 114d
Mar. 10	16		1, 2, 3	61	11, 12	21	331, 352, 357
July 30	356	I	1 (part)	61	531, 532	21	97, 97a, 97h, 97c, 97d
1948—Apr. 24	229			62	198	21	113a
June 5	423			62	344	21	98
June 16	477		1, 2	62	458	21	114c, 114f
June 24	613		1, 2	62	582	21	331, 334
June 25	646		5	62	986	21	193
1949—June 29	280	I	101 (part)	63	331	21	352, 357
July 13	305		1, 2	63	409, 410	21	381
Oct. 18	696		1, 2, 3	63	883, 883	21	331, 342, 347
1950—Mar. 16	61		3, 6	64	20, 22	21	347a, 347b
1951—Oct. 26	578		1, 2, 3	65	648, 649	21	333, 333 note, 353, 353 note
Oct. 30	637		1, 2	65	693, 694	21	114a, 114a-1
Nov. 2	666		1	65	767, 768	21	174
1953—Aug. 5	334		1, 2	67	389	21	352, 357
Aug. 7	350		1, 2, 3	67	476, 477	21	331, 334, 374
Aug. 8	381			67	493, 494	21	114a
Do	394		8	67	506	21	171
1954—Apr. 15	143		1, 2	68	54, 55	21	341, 371
July 22	559		1, 2, 3, 4, 5	68	511	21	321, 342, 342 notes, 346a

¹ Only the second full paragraph on this page, of which the first sentence was classified to the United States Code, 1946 ed., as section 95 of title 21 thereof, and the remainder was not classified to such Code.

² Commencing with the paragraph headed "For meat inspection," on page 1260, and continuing on to the bottom of such page, inclusive; all that appears on pages 1261, 1262, 1263 and 1264, including the paragraph which commences on page 1264 and ends on page 1265; and the first full paragraph on page 1265.

³ Only the proviso which commences near the bottom of this page, and ends on page 255 with the word "certified".

⁴ As amended by Acts Jan. 17, 1914, ch. 9, 38 Stat. 275-277; May 26, 1922, ch. 202, §§ 1-4, 42 Stat. 596-598; June 7, 1924, ch. 352, 43 Stat. 657; July 1, 1944, ch. 377, § 8, 58 Stat. 721; Mar. 8, 1946, ch. 81, § 7, 60 Stat. 39; Nov. 2, 1951, ch. 666, §§ 1, 5 (1), 65 Stat. 767, 769; June 27, 1952, ch. 477, § 403 (a) (10), 66 Stat. 279.

⁵ Only the third paragraph under the heading "Miscellaneous" appearing on this page.

⁶ All of the paragraph commencing on page 832, "That from and after July first", and ending on page 833, except the final sentence of such paragraph commencing "That there is hereby appropriated".

⁷ Only the first proviso appearing on this page.

⁸ Only the proviso in the paragraph commencing "Meat inspection, Bureau of Animal Industry" and appearing on this page.

⁹ Only the proviso appearing on this page.

¹⁰ All of the paragraph beginning "Meat inspection, Bureau of Animal Industry" appearing on this page, except the first sentence thereof.

¹¹ All of the fourth full paragraph appearing on this page.

¹² Only the last 2 provisos in the paragraph which begins on page 698 and ends on page 699, said 2 provisos appearing on page 699.

¹³ All of the paragraph which begins on page 712 and ends on page 713, except the final sentence of such paragraph.

¹⁴ As added by act Aug. 27, 1935, ch. 743, 49 Stat. 885.

¹⁵ Only the proviso in the paragraph headed "Meat inspection" appearing on this page.

¹⁶ The amendments made by the act of Feb. 7, 1923, ch. 30, to section 1 of act May 29, 1884, ch. 60 (23 Stat. 31; 7 U. S. C., sec. 391), are also repealed, but such repeal shall not be construed as repealing such section 1 of the act of 1884 (7 U. S. C., sec. 391) which, as amended by another section of this act, shall remain in full force and effect.

¹⁷ The first proviso appearing on this page.

¹⁸ The proviso in the paragraph headed "Meat inspection" appearing on this page.

¹⁹ Only that part of this section which amends that part of act June 30, 1906, ch. 3913, 34 Stat. 679, relating to a permanent appropriation for the inspection of cattle, sheep, swine, and goats and the meat and meat food products thereof and expenses incidental to such inspection, including the proviso in subsection (a) and item (3) of subsection (b) of such section 2.

²⁰ In the paragraph beginning on page 631 and ending on page 632, only the words reading, "which section is hereby made immediately effective" appearing on page 631.

²¹ Only the proviso in the paragraph headed "Food and Drug Administration," appearing on this page.

²² Only the proviso in the paragraph beginning "Enforcement of Tea Importation Act," appearing on this page.

²³ Only the following words in the second paragraph appearing on this page: "which may hereafter be cited as section 702A of the Federal Food, Drug, and Cosmetic Act."

²⁴ All of the paragraph beginning "Meat inspection," which commences on page 531 and ends on page 532.

²⁵ The two provisos in the last paragraph on this page.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Senate amendments were concurred in, and a motion to reconsider was laid on the table.

TITLE 13 OF THE UNITED STATES CODE, "CENSUS"

Mr. REED of Illinois. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H. R. 9729) to revise, codify, and enact into law, title 13 of the United States Code, entitled "Census," with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 3, strike out paragraphs (a), (b), (c), and (d) of section 8 and insert:

"(a) The Secretary may, upon a written request, and in his discretion, furnish to Governors of States and Territories, courts of record, and individuals, data for genealogical and other proper purposes, from the population, agriculture, and housing schedules prepared under the authority of subchapter II of chapter 5, upon the payment of the actual, or estimated cost of searching the records and \$1 for supplying a certificate.

"(b) The Secretary may furnish transcripts or copies of tables and other census records and make special statistical compilations and surveys for State or local officials, private concerns, or individuals upon the payment of the actual, or estimated cost of such work.

"(c) In no case shall information furnished under the authority of this section be used to the detriment of the persons to whom such information relates.

"(d) All moneys received by the Department of Commerce or any bureau or agency thereof in payment for furnishing transcripts of census records or making special statistical compilations and surveys shall be deposited to the credit of an appropriation for collecting statistics."

Page 11, line 1, after "with", insert ", and are compiled and published by."

Page 15, line 7 of section 214, strike out "his" and insert "this."

Page 15, line 7 of section 214, strike out "imprisonment" and insert "imprisoned."

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Senate amendments were concurred in, and a motion to reconsider was laid on the table.

UNITED STATES CODE

Mr. REED of Illinois. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H. R. 9730) to amend various statutes and certain titles of the United States Code, for the purpose of correcting obsolete reference, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 8, line 21, strike out "1947" and insert "1927."

Page 8, line 21, strike out "sec. 3 (a)."

Page 17, strike out all after line 5, over to and including line 3 on page 18.

Page 18, line 4, strike out "18" and insert "17."

Page 19, line 10, strike out "19" and insert "18."

Page 20, line 20, strike out "20" and insert "19."

Page 22, line 22, strike out "21" and insert "20."

Page 23, line 14, strike out "22" and insert "21."

Page 24, line 1, strike out "23" and insert "22."

Page 24, line 20, strike out "24" and insert "23."

Page 25, line 15, strike out "25" and insert "24."

Page 26, line 15, strike out "26" and insert "25."

Page 27, line 12, strike out "27" and insert "26."

Page 29, line 18, strike out "28" and insert "27."

Page 31, line 4, strike out "29" and insert "28."

Page 31, line 21, strike out "30" and insert "29."

Page 32, line 11, strike out "31" and insert "30."

Page 33, line 19, strike out "32" and insert "31."

Page 34, line 18, strike out "33" and insert "32."

Page 35, line 15, strike out "34" and insert "33."

Page 36, line 23, strike out "35" and insert "34."

Page 38, line 16, strike out "36" and insert "35."

Page 38, line 22, strike out "37" and insert "36."

Page 39, line 11, strike out "38" and insert "37."

Page 39, strike out all after line 22, over to and including all preceding line 6 on page 40.

Page 40, line 6, strike out "40" and insert "38."

Page 40, line 13, strike out "41" and insert "39."

Page 42, line 11, strike out "42" and insert "40."

Page 42, line 15, strike out "43" and insert "41."

Page 43, line 14, strike out "commission" and insert "commissioner."

Page 43, line 24, strike out "44" and insert "42."

Page 44, line 3, strike out "45" and insert "43."

Page 44, line 12, strike out "46" and insert "44."

Page 46, line 21, strike out "47" and insert "45."

Page 48, line 8, strike out "48" and insert "46."

Page 48, line 15, strike out "49" and insert "47."

Page 49, line 7, strike out "50" and insert "48."

Page 50, line 13, strike out "51" and insert "49."

Page 51, line 16, strike out "52" and insert "50."

Page 54, line 3, strike out "53" and insert "51."

Page 55, line 11, after "be" insert "the."

Page 56, line 14, strike out "54" and insert "52."

Page 56, line 23, strike out "55" and insert "53."

Page 58, line 14, strike out "56" and insert "54."

Page 59, line 1, strike out "57" and insert "55."

Page 61, line 3, strike out "58" and insert "56."

Page 61, line 13, strike out "59" and insert "57."

Page 62, strike out all after line 2, down to and including line 12.

Page 62, line 13, strike out "61" and insert "58."

Page 62, line 20, strike out "62" and insert "59."

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Senate amendments were concurred in, and a motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. GRAHAM. Mr. Speaker, I ask unanimous consent that all Members may have permission to extend their remarks in the body of the RECORD immediately preceding the vote on the bill S. 3706.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PROVIDING RELIEF FOR THE SHEEP-RAISING INDUSTRY

Mr. GRAHAM. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (S. 2862) to provide relief for the sheep-raising industry by making special nonquota immigrant visas available to certain skilled alien sheepherders.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. CELLER. Mr. Speaker, reserving the right to object, I would like to make 1 or 2 observations on this particular bill. I want the House to understand that we will have passed three so-called sheepherder bills with this bill before us. They were public bills. Those bills permitted entrance into this country of 1,075 Basque sheepherders. The 1,075 included this third bill, the instant bill, which involves 350 sheepherders. We have passed in addition 80 private sheepherder bills, making a total of 1,155 sheepherders. I do not know where all these sheepherders are going. I do not know why there is always an insistence that if you need sheepherders, you have to have Basque or Spanish sheepherders. That may be due to the fact that the sheep, as I am facetiously informed, only speak Spanish, and, therefore, they must be taken care of by Spanish sheepherders.

The Spanish quota is only 250, and because we have admitted so many sheepherders and subtracted one quota number for each sheepherder admitted, the Spanish quota is mortgaged for 15 years. The mortgage is for 507 of all future quotas.

There are many well-deserving, God-fearing Spaniards who desire to come to this country. They would make good citizens. They are not shepherds, but they have no friends who are Members of either the House or the Senate, and therefore they cannot importune this body through such friends and receive preference to enable them to come to this country. We need many nurses,

we need doctors, we need engineers, we need all manner and kind of skilled labor in our country, but, somehow or other, sheepherders are in an exalted position and they can always come in because certain people in this body and in the other body are so powerful that they bring them in, willy-nilly. It is time to call a halt. We are either going to enforce the McCarran-Walter Act with its restrictions or we are not. Every time you pass a bill admitting immigrants you circumvent and bypass the McCarran-Walter Act. You have heard today of the many private bills processed by the House Judiciary Committee Immigration Subcommittee. Four thousand bills have been introduced this session. That huge number is primarily due to the restrictions of that basic act. Eight hundred bills have been enacted.

In the 79th Congress 14 bills were enacted.

In the 80th Congress 80 bills were enacted.

In the 81st Congress 81 bills were enacted.

In the 82d Congress 729 bills were enacted.

They are increasing in arithmetical proportion, due to the unusual and rigid conditions of the basic act.

The time has come when we must take a new look at that act. I am willing for you to bring in sheepherders, but change the Spanish quota. We have been striving with might and main to provide an amendment to the fundamental act to the effect that unused quotas may be used to bring in deserving people, natives of countries cruelly discriminated against because of small quotas. For example, the British quota, which takes in more than 50 percent of the immigration pie, if I may use that expression, is rarely filled. Tens of thousands of Britains through the years have not come in who could have come in. Why not take unused British quota numbers and apply them to countries like Spain, Italy, Greece, and other lands with ridiculously small and tiny quotas? Thereby the total permissible number of immigrants would not be increased. But when we attempt to amend the Immigration Act in that way we are rebuffed. But we have these subterfuges as is involved in the sheepherders' bill. These subterfuges are used constantly, making exceptions to the statute, to bring groups in as non-quota. It is time to call a stop to this practice. Amend the basic act. That is a real remedy. I do not know but what next week we will have another sheepherders' bill. Yesterday we approved a sheepherders' bill, involving 40 sheepherders. They came into this country as seamen. The law was violated. They became deserting seamen, and then suddenly we find they are sheepherders. Their name was changed. Whether they actually tend sheep, I have no way of knowing. They are here. I did not want to send them back. I voted for the bill. We passed the bill yesterday saying that those Spaniards who came in as seamen could remain here because they were sheepherders. They are not to be deported, although they violated our

statutes when they lied upon their arrival and said they were seamen.

Mr. EBERHARTER. Mr. Speaker, will the gentleman yield?

Mr. CELLER. I yield.

Mr. EBERHARTER. I want to commend the gentleman for the comments he has made with respect to this matter. Of course, I have the highest regard for Spain as a nation. I think it has made wonderful progress in the past several years and is going to continue to make greater progress in the future. I have the highest esteem for the members of the Spanish race. I have had contact with many of them. There is no element in the world who would be better to have come into this country, but I must say there are many, many other groups throughout the world who would also make worthwhile citizens. It seems to me that it is against principle to single out one small particular segment of a great nation and give them special privileges, not only over other segments of other nations but over the whole world generally. If this Congress—

Mr. HOFFMAN of Michigan. Mr. Speaker, a point of order.

The SPEAKER. The gentleman will state the point of order.

Mr. HOFFMAN of Michigan. I object.

The SPEAKER. Objection is heard.

Has the Committee on the Judiciary further bills to call up at this time?

Mr. GRAHAM. None at this time.

HON. NORRIS COTTON

(Mr. PHILLIPS asked and was given permission to address the House for 1 minute.)

Mr. PHILLIPS. Mr. Speaker, with the ending of this session the Subcommittee on Independent Offices is going to lose one of its most respected and most valuable members.

I refer, of course, to the distinguished gentleman from New Hampshire, Mr. NORRIS COTTON, who has decided, of his own accord, to forsake this historic hall and run for office as a Member of the other body. The gentleman from New Hampshire has great ability, and a background of experience which has been of value to the Congress and to his State. He has been one of our hardest working Members, and he has a sustaining sense of humor which is a genuine asset, in dealing with the budget requests of more than three dozen agencies of the Government, year after year. I can only hope his people, in New Hampshire, realize the breadth of experience he has had on this subcommittee, which deals constantly with such agencies as the Atomic Energy Commission, with TVA, with the Housing Administration, with the Federal Power Commission and the Federal Trade Commission and the Federal Communications Commission and the Interstate Commerce Commission, and the General Services Administration, as well as dozens of smaller agencies, from the White House itself, to the Smithsonian Institution and the National Art Gallery and all the special commissions, down to a little commission working on the pol-

lution of the Potomac River, or the Roosevelt Memorial Library at Hyde Park.

It is a great experience to have served on this particular committee, the Committee on Appropriations, one of the most influential in the Congress, and it should be a matter of pride to a Member's constituents to know that he served ably and well and gained the respect and affection of his colleagues. I know the people of New Hampshire will not want to lose the cumulative value of this knowledge and ability and experience, and they they will support the gentleman from New Hampshire [Mr. NORRIS COTTON] in his desire to represent them in the Senate.

Mr. Speaker, I ask unanimous consent to revise and extend my own remarks, and I ask that the gentleman from Texas [Mr. THOMAS] may extend his remarks immediately following mine, and that all Members who so desire may extend their remarks on the service of the gentleman from New Hampshire.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. THOMAS. Mr. Speaker, our distinguished friend and colleague, the gentleman from New Hampshire [Mr. COTTON], is leaving this body. He is a candidate for the Senate.

I have had the privilege and pleasure of working with Mr. COTTON on the Appropriations Committee for several years, and know of no man who has discharged his responsibility with more sincerity—and with a broader grasp and understanding of the many problems entailed with Appropriations Committee work—than he. He has an enormous capacity for work and a deep understanding of the human as well as the financial side of our problems. The people of his great congressional district have every reason to be proud of him; he has served them ably and with distinction.

All of us in the House will miss his good advice and counsel, but our loss will be a gain to the Senate, and to all the people of the great State of New Hampshire.

Mr. MCINTIRE. Mr. Speaker, I am pleased to join with my colleagues in a tribute to the outstanding service in the House of Representatives of NORRIS COTTON, of New Hampshire. Maine is proud to have as a neighbor the State of New Hampshire. Our close common interest provides a real bond of friendship between members of the Maine congressional delegation and the outstanding delegation that serves the citizens of New Hampshire in the Congress of the United States.

My very best wishes are extended to the Honorable NORRIS COTTON and his family.

REASON FOR OBJECTION

(Mr. HOFFMAN of Michigan asked and was given permission to address the House for 30 seconds.)

Mr. HOFFMAN of Michigan. Mr. Speaker, when I objected to the sheep-

September

James C. Hagerty, Press Secretary to the President

THE WHITE HOUSE OFFICE

LOWRY AIR FORCE BASE
DENVER

MEMORANDUM OF DISAPPROVAL

I have withheld my approval from H. R. 9728, "To revise, codify, and enact into law, title 21 of the United States Code, entitled 'Food, Drugs, and Cosmetics.'"

The legislative history of this measure indicates that it was enacted in the view that existing law would not be substantially changed by the bill or that no changes in existing law would be made which would not meet with substantially unanimous approval.

Notwithstanding this, the bill makes one very important substantive change and casts serious doubts on the status and interpretation of other statutory provisions. The most important change is the deletion from the multiple seizure powers of the present law the authority which the Food and Drug Administration has had for a number of years to make more than one seizure of food, drugs, and cosmetics, where they bear identical labeling which is believed fraudulent or so materially misleading as to injure or damage the purchaser or consumer. In the cases subject to removal of authority made by the bill, the Food and Drug Administration would be able to seize only one shipment of the articles believed to be so misbranded. Such a limitation would make it possible for fraud and material deception to continue unabated until the validity of the labeling involved in the seizure case is definitely settled by the courts.

The enactment also contains a new substantive provision affecting the administration of the Federal Food, Drug, and Cosmetic Act, the meaning of which is very uncertain, namely, that the Administrative Procedure Act "shall continue to apply to all activities of the Food and Drug Administration." The Administrative Procedure Act already applies to both rule-making and adjudication under this regulatory statute, as it does to other Acts of Congress not expressly excepted. The Federal courts, I am informed, have discussed on several occasions the relationship of these two enactments. The new language, unless it should be regarded as mere surplusage, might be held to effect basic changes in existing procedures, thereby placing the Food and Drug Administration under requirements not applicable to any other Federal agency. Such a change in the scope of the Administrative Procedure Act should not be adopted without full consideration.

The interest of the consumer public is the principal objective of the Federal Food, Drug, and Cosmetic Act. I believe that substantive changes which may seriously affect the administration of this law should not be placed in the statute books without extending to the responsible enforcement agency, the great industries affected, and the consumer public, the full opportunities for hearing and discussion afforded by the usual operation of the legislative process both in the Committees and in both Houses of the Congress.

Finally, the enactment, through oversight, may nullify the provisions of legislation relating to the importation of animals and poultry into the Virgin Islands, approved on July 22 of this year (P. L. 517). The enrolled measure apparently does not take into consideration the amendments to the Organic Act of the Virgin Islands which were made by that Act. Here again the adverse effects would be serious.

DWIGHT D. EISENHOWER

THE WHITE HOUSE

September

James C. Hagerty, Press Secretary to the President

THE WHITE HOUSE OFFICE

LOWRY AIR FORCE BASE
DENVER

MEMORANDUM OF DISAPPROVAL

I have withheld my approval from H. R. 9728, "To revise, codify, and enact into law, title 21 of the United States Code, entitled 'Food, Drugs, and Cosmetics.'"

The legislative history of this measure indicates that it was enacted in the view that existing law would not be substantially changed by the bill or that no changes in existing law would be made which would not meet with substantially unanimous approval.

Notwithstanding this, the bill makes one very important substantive change and casts serious doubts on the status and interpretation of other statutory provisions. The most important change is the deletion from the multiple seizure powers of the present law the authority which the Food and Drug Administration has had for a number of years to make more than one seizure of food, drugs, and cosmetics, where they bear identical labeling which is believed fraudulent or so materially misleading as to injure or damage the purchaser or consumer. In the cases subject to removal of authority made by the bill, the Food and Drug Administration would be able to seize only one shipment of the articles believed to be so misbranded. Such a limitation would make it possible for fraud and material deception to continue unabated until the validity of the labeling involved in the seizure case is definitely settled by the courts.

The enactment also contains a new substantive provision affecting the administration of the Federal Food, Drug, and Cosmetic Act, the meaning of which is very uncertain, namely, that the Administrative Procedure Act "shall continue to apply to all activities of the Food and Drug Administration." The Administrative Procedure Act already applies to both rule-making and adjudication under this regulatory statute, as it does to other Acts of Congress not expressly excepted. The Federal courts, I am informed, have discussed on several occasions the relationship of these two enactments. The new language, unless it should be regarded as mere surplusage, might be held to effect basic changes in existing procedures, thereby placing the Food and Drug Administration under requirements not applicable to any other Federal agency. Such a change in the scope of the Administrative Procedure Act should not be adopted without full consideration.

The interest of the consumer public is the principal objective of the Federal Food, Drug, and Cosmetic Act. I believe that substantive changes which may seriously affect the administration of this law should not be placed in the statute books without extending to the responsible enforcement agency, the great industries affected, and the consumer public, the full opportunities for hearing and discussion afforded by the usual operation of the legislative process both in the Committees and in both Houses of the Congress.

Finally, the enactment, through oversight, may nullify the provisions of legislation relating to the importation of animals and poultry into the Virgin Islands, approved on July 22 of this year (P.L. 517). The enrolled measure apparently does not take into consideration the amendments to the Organic Act of the Virgin Islands which were made by that Act. Here again the adverse effects would be serious.

DWIGHT D. EISENHOWER

THE WHITE HOUSE

THE
LIBRARY
OF THE
MUSEUM OF
COMPARATIVE ZOOLOGY
AT HARVARD UNIVERSITY

U.S.D.A.
SEA/TIS
LAW LIBRARY
ROOM 1406 SOUTH
WASHINGTON D.C. 20250

